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No.: **ICC-01/14-01/21**
Date: **23 September 2026**

TRIAL CHAMBER VI

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

SITUATION IN THE CENTRAL AFRICAN REPUBLIC II

IN THE CASE OF

THE PROSECUTOR v. MAHAMAT SAID ABDEL KANI

Public Redacted

Trial Judgment

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

☒ The Office of the Prosecutor

☒ Counsel for the Defence

☒ Legal Representatives of the Victims

☐ Legal Representatives of the Applicants

☐ Unrepresented Victims

☐ Unrepresented Applicants (Participation/Reparation)

☐ The Office of Public Counsel for Victims

☐ The Office of Public Counsel for the Defence

☐ States' Representatives

☐ Amicus Curiae

REGISTRY

Registrar
Mr Osvaldo Zavala Giler

☐ Counsel Support Section

☐ Victims and Witnesses Unit

☐ Detention Section

☐ Victims Participation and Reparations Section

☐ Other

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I. OVERVIEW

A. BACKGROUND

1. This case concerns crimes against humanity and war crimes relating to the alleged detention and mistreatment of persons at the *Office Central de Répression du Banditisme* (the 'OCRB') between 12 April 2013 and 30 August 2013 in Bangui, the Central African Republic (hereinafter: 'CAR').[1]

2. The charged crimes in the present case are alleged to constitute war crimes as they took place in the context of a conflict not of an international character between the 'Seleka', a coalition of armed groups, and a group of forces referred to by the Office of the Prosecutor of the International Criminal Court (the 'Prosecution') as the 'pro-Bozizé forces', so called for their alleged alignment with the then President of CAR François Bozizé. The conflict allegedly initially erupted in late 2012 with the Seleka launching an offensive in northern CAR, which ultimately resulted in the Seleka taking over Bangui and François Bozizé being deposed and forced to flee the city on 24 March 2013. A central question in this case is whether the conflict continued thereafter during the period relevant to the charged crimes (April to August 2013).

3. The charged crimes in the present case are also alleged to constitute crimes against humanity as they were part of an alleged attack on the civilian population of Bangui carried out by the Seleka after the coup d'état of 24 March 2013. It is alleged that the Seleka targeted persons they perceived to be associated with François Bozizé or his regime resulting in killings, rapes, and assaults, looting and pillaging of property, as well as the detention and mistreatment of perceived supporters of François Bozizé at multiple detention sites, including the OCRB.

B. THE ACCUSED

4. This case concerns the alleged individual criminal responsibility of Mr Mahamat Said Abdel Kani, also known as 'Mahamat Said Abdel Kain' and 'Mahamat Saïd Abdelkani', a member of the Seleka coalition who is alleged to have been the Head of the OCRB and responsible for crimes committed therein.

[1] Confirmation of Charges Decision, ICC-01/14-01/21-218-Red, p. 53, para. 25, pp. 60-61.

5. Mahamat Said Abdel Kani was born on 25 February 1970 in Bria in CAR.[2] During the period relevant to the charges Mr Said lived in the 36 Villas neighbourhood in Bangui.[3] At the time, Mr Said spoke Goula,[4] Sango,[5] French,[6] and Arabic.[7]

6. In respect of Mr Said's appearance during the period relevant to the charges, the Chamber notes that there are a number of contemporaneous photographs of Mr Said on the record,[8] in which he was positively identified by a number of witnesses.[9] Several witnesses present at the OCRB gave evidence regarding Mr Said's physical appearance,[10] noting that he typically wore a military camouflage uniform.[11] The Chamber also received evidence from a number of victims who were detained at the OCRB, who provided physical descriptions of Mr Said.[12] While descriptions given by witnesses vary, on the

[2] Agreed Facts, ICC-01/14-01/21-448-AnxA, no. 4. The Chamber is satisfied that other evidence on the record supports this agreed fact: *see generally* P-0338: T-017, p. 70; P-2105: T-023, p. 50; P-1004: CAR-OTP-2043-0536, at 0540, para. 31.
[3] P-0338: T-017, p. 67; P-1004: CAR-OTP-2043-0536, at 0540, para. 31.
[4] P-0338: T-017, p. 66.
[5] P-0338: T-017, p. 64. *See also* P-2241: CAR-OTP-2092-3851, at 3863, para. 61.
[6] P-2478: T-034, p. 10.
[7] P-0547: T-013, pp. 18-19; P-0547: T-016, pp. 17-18; P-1429: CAR-OTP-2049-0166, at 0174, para. 48. *See also* FIDH Report, CAR-OTP-2001-2890, at 2933.
[8] Mr Said appears in photographs, CAR-OTP-2069-3226/CAR-OTP-2094-1927, CAR-OTP-2069-3227/CAR-OTP-2094-1928, CAR-OTP-2081-0067/CAR-OTP-2094-2006, CAR-OTP-2069-3245 and CAR-OTP-2094-1937.
[9] For example, Mr Said was identified in photograph, CAR-OTP-2069-3226/CAR-OTP-2094-1927, which was taken on 30 August 2013 at the police directorate in the context of the ceremony of the Seleka's departure from the OCRB (*see* [REDACTED], referring to photograph, CAR-OTP-2069-3226), by P-0338, P-2478, P-2105, P-2607, P-1737 and multiple other witnesses: P-0338: T-018, pp. 52-53, referring to photograph, CAR-OTP-2094-1927 (annotated version, CAR-REG-0002-0030); P-2478: CAR-OTP-2107-8835, at 8855, para. 76, referring to photograph, CAR-OTP-2094-1927; addendum to P-2478's prior recorded testimony, CAR-OTP-00000461, at 000003-000004, referring to photographs, CAR-OTP-2069-3226 and CAR-OTP-2094-1927; P-2105: T-024, pp. 64-65, referring to photograph, CAR-OTP-2069-3226 (annotated version, CAR-REG-0002-0042); addendum to P-2607's prior recorded testimony, CAR-OTP-00000751, at 000005, referring to photograph, CAR-OTP-2069-3226; P-1737: T-044, pp. 66-68, referring to photograph, CAR-OTP-2069-3226 (annotated version, CAR-REG-0002-0104). Mr Said was identified in photograph, CAR-OTP-2081-0067/CAR-OTP-2094-2006 by P-1429 and P-3064: addendum P-1429's to prior recorded testimony, CAR-OTP-00000590, at 000003, referring to photograph, CAR-OTP-2094-2006; P-3064: T-075, pp. 12-13, referring to photograph, CAR-OTP-2094-2006.
[10] [REDACTED]; [REDACTED].
[11] P-0338: T-017, p. 66; addendum to P-2478's prior recorded testimony, CAR-OTP-00000461, at 000002; [REDACTED].
[12] P-1429 described Mr Said as being '1.70 metres tall and of average build. He had short hair and an elongated, oval-shaped face. He was shaven and dark-skinned. He was dressed in military camouflage uniform and was carrying a pistol': P-1429: CAR-OTP-2049-0166, at 0174, para. 49. P-2400 described Mr Said as being 'very fat and taller than [him]' and noted that his 'face and head were clean-shaven'. P-2400 further noted that when Mr Said arrived at the OCRB after P-2400 had been brought there he was wearing 'a military uniform and two small firearms on each hip' and 'had no brassard but he wore a sign showing three stars': P-2400: CAR-OTP-2104-0424, at 0432-0433, para. 41). P-2241 described 'Mahamat Said' as 'muscled, quite short, of black complexion. He had a moustache but no beard, short black hair, no scars', and noted he 'wore a military green camouflage ('tache-tache') uniform with military patches on his shoulders but I do not know what rank they indicated'. P-2241 testified that Mr Said had a 'pistol automatique', a mobile phone and a walkie-talkie: P-2241: CAR-OTP-2092-3851, at 3863, paras 60-61.

basis of the evidence presented, the Chamber is satisfied that Mr Said was of a robust physique, clean-shaven, with short or shaved hair and typically wore a military camouflage uniform during the period relevant to the charges in 2013.

C. THE SCOPE OF THE CHARGES

1. General

7. Mr Said is accused of the crimes against humanity of imprisonment or other severe deprivation of physical liberty, torture, other inhumane acts and persecution, as well as the war crimes of torture, cruel treatment and outrages upon personal dignity.[13] Specifically, the Prosecution alleges that Mr Said, together with the OCRB Seleka, detained and mistreated perceived Bozizé supporters at the OCRB between 12 April 2013 and 30 August 2013.[14] Mr Said is alleged to have been in charge of the OCRB detention centre and the Seleka operating there at the time.[15]

8. In order to establish whether the crimes allegedly committed by Mr Said may be characterised as war crimes, the Chamber must ascertain whether they were committed in the context of and were associated with an armed conflict. Similarly, in order to establish whether the crimes alleged may be characterised as crimes against humanity, the Chamber must determine whether they were committed as part of a widespread and systematic attack against the civilian population. For the purposes of establishing these contextual elements, the present judgment considers circumstances beyond the events at the OCRB and Mr Said's actions. This broader context includes the creation of the Seleka and its advance on Bangui, the ouster of François Bozizé and the activities of the groups and individuals alleged to make up the 'pro-Bozizé forces', as well as the way the Seleka treated civilians in Bangui generally.

2. Allegations excluded from the charges against Mr Said

9. The present judgment is bound by the facts and circumstances described in the charges confirmed by the Pre-Trial Chamber.[16] The Chamber notes that the Pre-Trial Chamber did not confirm the charges brought in relation to the alleged detention and mistreatment

[13] Confirmation of Charges Decision, ICC-01/14-01/21-218-Red, pp. 60-61. The full text of the charges is contained in the operative part of the Confirmation of Charges Decision issued by Pre-Trial Chamber II: Confirmation of Charges Decision, ICC-01/14-01/21-218-Red, p. 50 *et seq*.
[14] Confirmation of Charges Decision, ICC-01/14-01/21-218-Red, p. 53, para. 25.
[15] Confirmation of Charges Decision, ICC-01/14-01/21-218-Red, p. 54, para. 29.
[16] Article 74(2) of the Statute.

of P-1432 and P-1762 at the OCRB,[17] and persons at the *Comité extraordinaire pour la défense des acquis démocratiques* (hereinafter: 'CEDAD') compound between mid-September 2013 and 8 November 2013.[18] The Pre-Trial Chamber also noted that a number of detainees at the OCRB were alleged to have been detained and mistreated at other locations such as the camp at Sapeurs-Pompiers, Camp de Roux and Camp Kassai, and clarified that Mr Said was not alleged to have been responsible for crimes committed in locations other than the OCRB.[19] The Chamber notes that the case against Mr Said is limited to the alleged targeting of perceived Bozizé supporters in Bangui through the commission of the crimes charged at the OCRB or by the OCRB Seleka under his command.[20]

10. Factual allegations relating to crimes at the OCRB that were not confirmed by the Pre-Trial Chamber and crimes committed at locations other than the OCRB are relevant to the wider context of the attack against the civilian population and will be assessed in this context.[21] In this regard, the Chamber notes that the Pre-Trial Chamber confirmed that the crimes committed at the OCRB were part of a widespread and systematic attack against the civilian population in Bangui from 'at least April 2013 until at least November 2013', which included 'multiple acts of murder, rape, torture, imprisonment, persecution, and other inhumane acts'.[22] The Chamber also notes that evidence supporting these allegations may be relevant in assessing the credibility of witnesses, the operations and functioning of the OCRB more generally, or the extent of the suffering endured by

[17] Confirmation of Charges Decision, ICC-01/14-01/21-218-Red, pp. 37-38, paras 116-117; First Decision on Scope of the Charges, ICC-01/14-01/21-282; Second Decision on Scope of the Charges, ICC-01/14-01/21-472.
[18] Confirmation of Charges Decision, ICC-01/14-01/21-218-Red, pp. 40-48, paras 125-153.
[19] Confirmation of Charges Decision, ICC-01/14-01/21-218-Red, p. 29, para. 80, referring to Incidents C, H, I, P and Q addressed in the present judgment (para. 33(d), (i), (j), (q), (r), (s) of the Document Containing the Charges, ICC-01/14-01/21-144-Corr2). The Pre-Trial Chamber took the view that the Prosecution did not charge Mr Said for crimes allegedly committed at those locations and therefore only addressed events that allegedly took place in the OCRB during the relevant period.
[20] Prosecution Closing Brief, ICC-01/14-01/21-1027-Red, para. 305.
[21] The Chamber notes that the Defence in its closing brief argues that the allegations regarding detention and mistreatment at CEDAD are beyond the scope of the confirmed charges and cannot be taken into account for the purposes of establishing the contextual elements of crimes against humanity: Defence Closing Brief, ICC-01/14-01/21-1039-Red, paras 144-146. This argument was previously raised (Defence Request to Reject Prosecution Trial Brief, ICC-01/14-01/21-414-Red, paras 16-21) and rejected by the Chamber (Decision on Request to Reject Prosecution Trial Brief, ICC-01/14- 01/21-437-Red, para. 21) and will not be addressed again.
[22] Confirmation of Charges Decision, ICC-01/14-01/21-218-Red, pp. 51-52, paras 14-15. While the Pre-Trial Chamber highlighted a number of specific events (such as the April and August operations in Boy Rabe, the April operation in the 7th Arrondissement and an attack on minibus passengers at the PK9 checkpoint) as examples of the manner in which the Seleka targeted the civilian population perceived to be Bozizé supporters, these were just examples set within a broader pattern of article 7(1) acts.

victims who were subsequently detained at the OCRB.

3. Legal characterisation of acts

11. The Chamber is also bound by the Pre-Trial Chamber's legal characterisation of the facts and circumstances in the charges. Regarding torture specifically, the Pre-Trial Chamber confirmed the charges of torture and cruel treatment in relation to individuals who were tied using the *arbatachar* method as well as other detainees who were severely mistreated, including those who are the subjects of Incidents B, E, H, M, and Q.[23] This corresponds to the legal characterisation of the facts presented by the Prosecution in the Document Containing the Charges, although the word 'including' was added by the Pre-Trial Chamber.[24] In the Prosecution Closing Brief, the Prosecution qualifies *all* of the charged incidents as torture and cruel treatment, noting that the victims 'were held in dire conditions, and the Seleka inflict[ed] on them continuous severe physical mental pain or suffering, subjecting them to death or rape threats, beatings with rifle butts or truncheons or burning them'.[25] The Defence objects to this interpretation of the charge of torture to include incidents that were not the subject of the charges originally confirmed.[26]

12. The Chamber considers the expansive description of torture in the Prosecution Closing Brief to represent an impermissible attempt to legally re-characterise the facts relevant to those incidents that were *not* originally charged as torture. In line with the position taken regarding the factual scope of the charges,[27] the Chamber is of the view that the addition of the word 'including' by the Pre-Trial Chamber cannot be interpreted as allowing the Prosecution carte blanche to legally and factually re-frame the charge of torture at the end of the trial.[28] The Chamber did not consider it necessary to have recourse to

[23] Confirmation of Charges Decision, ICC-01/14-01/21-218-Red, p. 60.
[24] Document Containing the Charges, ICC-01/14-01/21-144-Corr2, para. 33(c), (f), (i), (n), (s), Document Containing the Charges, ICC-01/14-01/21-144-Conf, para. 33(c), (f), (i), (n), (s). Although the incident numbers are different in the document containing the charges, these correspond to the incidents referred to by the Pre-Trial Chamber as certain incidents were not confirmed and the letters associated with the incidents changed.
[25] Prosecution Closing Brief, ICC-01/14-01/21-1027-Red, para. 278, n. 1238.
[26] Defence Closing Brief, ICC-01/14-01/21-1039-Red, paras 562-563. The Chamber notes that the Defence maintains that the charges of torture and cruel treatment were confirmed in respect of only five incidents. This assertion is contradicted by the clear terms of the Confirmation of Charges Decision, which also refers to victims who were tied using the *arbatachar* method.
[27] Second Decision on Scope of the Charges, ICC-01/14-01/21-472, para. 24.
[28] Regulation 55 of the Regulations of the Court provides that the Chamber may change the legal characterisation of facts to accord with the crimes under articles 6, 7, 8 or 8*bis* in its decision under article 74 of the Statute, but the Chamber is required to provide advance notice to the participants and to give them the opportunity to make oral or written submissions.

regulation 55 of the Regulations to modify the legal characterisation of the facts from that as originally alleged by the Prosecution and confirmed by the Pre-Trial Chamber. Accordingly, the Chamber will consider the charge of torture only in respect of Incidents B, E, H, M, and Q and the following incidents in which victims were allegedly tied using the *arbatachar* method at the OCRB: F, L, N, O, P, Q (in relation to the unidentified 'older man') and R.

13. Finally, the Chamber notes that Incidents F, G and J contain allegations of victims being killed, but that the relevant facts were not charged as murder.[29] The Chamber notes that the Prosecution's charging was based on its belief that there was insufficient information that Mr Said had the requisite intent and knowledge that the victims would be killed in relation to incidents G and J, and the fact that no human remains had been uncovered to prove that the three unidentified victims of Incident F were actually dead.[30] Accordingly, the Chamber will consider the facts alleged only under the legal characterisations charged by the Prosecution and confirmed by the Pre-Trial Chamber.

4. Incidents D and K

14. In relation to the arrest and detention of P-0645 at the OCRB confirmed as Incident D in the Confirmation of Charges Decision, the Chamber notes that the Prosecution indicated at the beginning of the trial that it would not present evidence in relation to this incident,[31] a position it reiterated in its closing brief.[32] After the Prosecution Closing Brief had been filed, the Chamber requested the Prosecution to clarify its position with respect to this incident as it had not requested leave to withdraw the charges.[33] The Prosecution then changed its approach, asserted that it maintained Incident D as part of the charges and highlighted evidence that it had presented in support thereof.[34]

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[29] Confirmation of Charges Decision, ICC-01/14-01/21-218-Red, pp. 55-56, para. 29(f), (g), (j).
[30] Prosecution Pre-Confirmation Brief, ICC-01/14-01/21-155-Red3, n. 364, 367, 378.
[31] Prosecution Trial Brief, ICC-01/14-01/21-359-Red, para. 129, n. 440.
[32] Prosecution Closing Brief, ICC-01/14-01/21-1027-Red, para. 124, n. 526.
[33] Order in Respect of Incidents D and K, ICC-01/14-01/21-1031.
[34] Prosecution Clarification in respect of Incidents D and K, ICC-01/14-01/21-1035-Red2, paras 9-10. The Prosecution sought the Chamber's leave to file an addendum and a corrigendum to its closing brief: Prosecution Clarification in respect of Incidents D and K, ICC-01/14-01/21-1035-Red2, para. 13. *See also* Defence Response to Prosecution Clarification in respect of Incidents D and K, ICC-01/14-01/21-1036, para. 4 (opposing the Prosecution's request for leave to file an addendum and corrigendum) and Decision Regarding the Prosecution Clarification in Respect of Incidents D and K, ICC-01/14-01/21-1037 (finding an addendum and related corrigendum to the Prosecution Closing Brief to be unnecessary in light of the Prosecution Clarification in respect of Incidents D and K and allowing the Defence time to properly develop its position and respond to the Prosecution's submissions in relation to Incidents D and K).

15. Based on the circumstances outlined below, the Chamber considers that the Prosecution's contradictory approach in relation to Incident D raises serious issues with regard to the accused's right to be informed promptly and in detail of the nature, cause and content of the charges.[35] First, the Defence was informed at the beginning of the trial that the Prosecution did not intend to present evidence in relation to this incident. Second, although the Prosecution submitted documentary evidence regarding the detention of P-0645 through a bar table motion, this request preceded and therefore did not displace the Prosecution's clarification that it did not intend to present evidence regarding this incident.[36] Third, although the detention of P-0645 was mentioned in the prior recorded testimony of a number of witnesses and the Defence was therefore in possession of relevant information,[37] none of the witnesses were questioned in court regarding the detention of P-0645. Fourth, P-0645, the victim of Incident D, did not testify as a witness and the Prosecution, in explaining its decision not to present evidence regarding this incident, stated that P-0645 had refused to sign his witness statement and declined to cooperate with the Court.[38]

16. The Chamber concludes that the Defence proceeded through the entire presentation of evidence on the understanding that the Prosecution had abandoned Incident D,[39] and, as such, Mr Said was effectively deprived of the opportunity to prepare a defence in relation to the alleged detention of P-0645. Given that the Prosecution changed its position in relation to Incident D after the closure of the presentation of evidence, the Chamber could not remedy the breach in Mr Said's fair trial rights. Therefore, in exercise of its duties pursuant to articles 21(3), 64(2) and 67(1)(a) of the Rome Statute (the 'Statute') to ensure a fair trial consistent with internationally recognised human rights, the Chamber

[35] The Chamber notes, for example, that the right to adequate time for the proper preparation of the defence presupposes that the Defence team will have sufficient time to conceive, prepare and raise meaningful and effective grounds of defence which are tailored to its case. The right to a fair trial, of which the principle of equality of arms forms an integral part, mandates, furthermore, that each party to proceedings be afforded a reasonable opportunity to present its case under conditions which do not clearly disadvantage it vis-à-vis its adversary. *See, for example,* *Katanga* Trial Judgment, ICC-01/04-01/07-3436-tENG, para. 1572.
[36] Annex A to the Prosecution Sixth Bar Table Application, ICC-01/14-01/21-325-Conf-AnxA, pp. 25-26, 39, referring to press article, CAR-OTP-2020-0161, report, CAR-OTP-2034-0207.
[37] The prior recorded testimony of P-0481 (the victim of Incident B), P-1429 (the victim of Incident I) and P-2240 (who also gave evidence about Incident Q) indicated that they possessed information pertinent to Incident D. The prior recorded testimony of P-1429 and P-2240 containing information relevant to Incident D was introduced under rule 68(3) of the Rules, but the Prosecution did not adduce any evidence relating to Incident D from P-0481 who testified fully *viva voce*.
[38] Prosecution Trial Brief, ICC-01/14-01/21-359-Red, para. 129, n. 440.
[39] Defence Submissions in respect of Incidents D and K, ICC-01/14-01/21-1040-Red, para. 9.

dismisses the charges in relation to Incident D.[40]

17. In relation to the arrest and detention of P-2172 (Incident K), the Chamber notes that the Pre-Trial Chamber confirmed Incident K in the Confirmation of Charges Decision and that at no time since that decision did the Prosecution request the withdrawal of the charges relating to this incident. The Chamber further observes that, in contrast to Incident D, the Prosecution did not give an assurance that it would abstain from presenting evidence in relation to Incident K at the beginning of the trial. Consequently, the Chamber considers that there was no doubt that Incident K formed part of the charges throughout the trial. Although the Prosecution did not present any evidence supporting these charges in its closing brief, and noted that it would not call P-2172 to give evidence because he did not 'wish to testify given the position he holds [REDACTED] and his religious beliefs',[41] it clarified its position and identified the relevant evidence within one month of the filing of the brief. Accordingly, and in light of the fact that the Defence was provided with an opportunity to respond to the Prosecution's clarification and to the evidence identified as relevant to Incident K, the Chamber considers that the rights of the Defence have not been prejudiced by the manner in which the Prosecution presented its case on Incident K.

D. PROCEDURAL HISTORY

18. For ease of reference, the Chamber considers it appropriate to provide a brief overview of the procedural history in the case below. The Chamber also appends two annexes containing the full citations for material referenced (Annex B) and a list of witnesses with references to their full statements and mode of testimony (Annex C).

19. The CAR situation was referred to the Prosecution by CAR on 30 May 2014.[42]

20. On 7 January 2019, Pre-Trial Chamber II issued a warrant of arrest under article 58(1) of the Statute against Mahamat Said Abdel Kani.[43] Mr Said was surrendered to the Court on 24 January 2021 and made his initial appearance before the Court on 28 and

[40] *See similarly* *Lubanga* OA4 Appeal Judgment, ICC-01/04-01/06-772, paras 36-39; *Lubanga* OA13 Appeal Judgment, ICC-01/04-01/06-1486, para. 76.
[41] Email from the Prosecution to the Chamber (with the parties and participants in copy), dated 16 September 2024 at 15:02.
[42] *See* Decision Assigning the Situation in the Central African Republic II to Pre-Trial Chamber II, ICC-01/14-1.
[43] Arrest Warrant, ICC-01/14-01/21-2-Red2.

29 January 2021.[44]

21. On 16 August 2021, the Prosecution filed the 'Document Containing the Charges' together with its list of evidence and, on 26 October 2021, a corrected version of the 'Document Containing the Charges'.[45] On 30 August 2021, the Prosecution filed the 'Pre-Confirmation Brief'.[46]

22. The confirmation of charges hearing took place from 12 to 14 October 2021.[47] On 9 December 2021, Pre-Trial Chamber II partially confirmed the charges against the accused and committed him for trial on the charges as confirmed.[48] On 14 December 2021, the Presidency issued a decision constituting the Chamber and referring the case of *The Prosecutor v. Mahamat Said Abdel Kani* to it.[49]

23. On 20 April 2022 and 6 September 2022, the Chamber issued two decisions on the scope of the charges, clarifying that 'the scope of the charged criminal acts in this case is limited to the specific criminal acts listed by the Pre-Trial Chamber in paragraph 29 of the operative part of the Confirmation of Charges Decision'.[50]

24. Between 27 May 2022 and 9 April 2025, the Chamber authorised the participation of 32 victims in the trial proceedings.[51]

25. On 13 June 2022, the Prosecution submitted its trial brief and its list of evidence.[52] On 12 August 2022, the Defence submitted its trial brief.[53]

26. On 5 July 2022, the Prosecution and the Defence submitted eight agreed facts.[54] On 12 August 2022, the parties submitted two additional agreed facts.[55]

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[44] Decision on Initial Appearance, ICC-01/14-01/21-4.
[45] Document Containing the Charges, ICC-01/14-01/21-144-Corr2.
[46] Prosecution Pre-Confirmation Brief, ICC-01/14-01/21-155-Red3.
[47] Scheduling Order for the Confirmation of Charges Hearing, ICC-01/14-01/21-172.
[48] Confirmation of Charges Decision, ICC-01/14-01/21-218-Red.
[49] Decision Constituting Trial Chamber VI, ICC-01/14-01/21-220.
[50] First Decision on Scope of the Charges, ICC-01/14-01/21-282, para. 17; Second Decision on Scope of the Charges, ICC-01/14-01/21-472, para. 25. *See also* Decision on Amending Charges, ICC-01/14-01/21-396.
[51] First Victim Participation Decision, ICC-01/14-01/21-331; Second Victim Participation Decision, ICC-01/14-01/21-640-Red; Third Victim Participation Decision, ICC-01/14-01/21-695-Red; Fourth Victim Participation Decision, ICC-01/14-01/21-812; Fifth Victim Participation Decision, ICC-01/14-01/21-906; Sixth Victim Participation Decision, ICC-01/14-01/21-960.
[52] Prosecution Trial Brief, ICC-01/14-01/21-359-Red; Prosecution List of Evidence, ICC-01/14-01/21-358.
[53] Defence Trial Brief, ICC-01/14-01/21-449-Red.
[54] Annex A to First Submission of Agreed Facts, ICC-01/14-01/21-387-AnxA.
[55] Second Submission of Agreed Facts, ICC-01/14-01/21-448.

27. On 26 September 2022, the trial commenced with opening statements from the parties and participants.[56] On 29 September 2022, the Prosecution called its first witness.

28. In late January 2023, Mr Said underwent scheduled medical treatment.

29. On 7 February 2023, the Registry informed the Chamber, parties and participants, *inter alia*, that Mr Said was not capable of appearing at hearings for medical reasons and that he would likely be unable to participate in hearings for at least six months.[57] The Chamber further notified the parties and participants that Mr Said had not waived his right to be present at trial in accordance with article 67(1)(d) of the Statute, and thus the trial could not continue.[58] As a result, the Chamber suspended the trial until further notice.

30. On 12 June 2023, following a period in which the Chamber received periodic updates from the Medical Officer at the Detention Centre regarding Mr Said's health, the Registry filed a report from the Medical Officer indicating that Mr Said had ceased to give his consent for his medical information to be disclosed to the Chamber.[59]

31. On 14 August 2023, following submissions from the parties, participants and the Registry, the Chamber appointed two medical experts to undertake a medical examination of Mr Said pursuant to rule 135 of the Rules of Procedure and Evidence (the 'Rules').[60] On 30 November 2023, following a medical examination of Mr Said, the panel of the appointed medical experts submitted its report on the medical condition of Mr Said and his ability to participate in the proceedings.[61] On 15 December 2023, the Chamber issued its 'Decision on Mr Said's Fitness to Stand Trial', finding that, *inter alia*, Mr Said is fit to stand trial.[62] The Chamber resumed the evidentiary hearings on 29 January 2024.[63]

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[56] Decision on Commencement of Trial, ICC-01/14-01/21-243; Opening Statements, T-010, Opening Statements, T-011.
[57] Decision on Fitness to Stand Trial, ICC-01/14-01/21-667-Red, para. 3.
[58] Decision on Fitness to Stand Trial, ICC-01/14-01/21-667-Red, para. 3.
[59] Annex to Registry Transmission of Medical Officer's Report, ICC-01/14-01/21-615-SECRET-Exp-Anx.
[60] Decision Appointing Experts, ICC-01/14-01/21-630-Red.
[61] Annex II to Registry's Transmission of Panel of Experts' Report, ICC-01/14-01/21-654-SECRET-Exp-AnxII.
[62] Decision on Fitness to Stand Trial, ICC-01/14-01/21-667-Red.
[63] T-048. Where relevant and unless indicated otherwise, the Chamber has relied on the English confidential versions of the transcripts with reference to the witness codes (if applicable), short-form transcript numbers (which omit the full reference (ICC-01/14-01/21-T-[…][-Conf/Red]-Eng)) and page numbers (if applicable).

32. On 15 November 2024, the Prosecution formally closed the presentation of its evidence.[64]

33. On 17 March 2025, the Defence called its first witness.[65] On 1 April 2025 and 23 June 2025, the Chamber issued two decisions on the Defence's requests for additional time to complete its investigative activities, and set 22 August 2025 as the deadline for filing its final list of evidence and list of witnesses.[66] On 2 September 2025, the Defence formally closed the presentation of its evidence.[67]

34. On 9 September 2025, the Chamber declared the submission of evidence closed.[68]

35. On 25 September 2025, the Prosecution and the Common Legal Representative of Victims submitted their closing briefs.[69] On 11 November 2025, the Defence submitted its closing brief.[70] The closing statements were heard on 25 and 26 November 2025.[71]

II. EVIDENTIARY PRINCIPLES

A. GENERAL CONSIDERATIONS

1. Burden and standard of proof

36. Article 66(1) of the Statute provides that everyone is presumed innocent until proven guilty before the Court. According to article 66(2) of the Statute, the onus is on the Prosecution to prove the guilt of the accused.

37. In order to convict the accused, pursuant to article 66(3) of the Statute, the Chamber must be convinced of the guilt of the accused beyond reasonable doubt. The standard of beyond reasonable doubt is to be applied to the facts that are indispensable for entering a conviction, namely those constituting the elements of the crimes and modes of liability charged.[72] For its determination of the guilt or innocence of the accused, the Chamber

[64] Notice of Conclusion of Prosecution's Case, ICC-01/14-01/21-895.
[65] T-134.
[66] Decision on the Defence's Request for Additional Time, ICC-01/14-01/21-955-Red, p. 9; Decision Setting Deadlines for Defence, ICC-01/14-01/21-986-Red, p. 17.
[67] Notice of the Conclusion of the Defence's Case, ICC-01/14 01/21-1020.
[68] Declaration on the Closure of the Presentation of Evidence, ICC-01/14-01/21-1025.
[69] Prosecution Closing Brief, ICC-01/14-01/21-1027-Red; CLRV Closing Brief, ICC-01/14-01/21-1028-Red2.
[70] Defence Closing Brief, ICC-01/14-01/21-1039-Red.
[71] Closing Statements, T-140; Closing Statements, T-141.
[72] *Ongwen* Appeal Judgment, ICC-02/04-01/15-2022-Red, para. 338; *Lubanga* Appeal Judgment, ICC-01/04-01/06-3121-Red, para. 22; *Bemba et al.* Appeal Judgment, ICC-01/05-01/13-2275-Red, paras 96, 868; *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 167; *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 127; *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 19; *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 227; *Ntaganda* Trial Judgment, ICC-01/04-02/06-2359, para. 44.

must carry out a holistic assessment, weighing all the evidence taken together in relation to the facts at issue.[73]

38. In accordance with its plain meaning, reasonable doubts must be grounded in reason. More specifically, the reasonable doubt standard 'cannot consist in imaginary or frivolous doubt' and 'must have a rational link to the evidence, lack of evidence, or inconsistencies in the evidence'.[74]

2. Evidence submitted and discussed

39. Pursuant to article 74(2) of the Statute, the decision of a trial chamber on the guilt or innocence of the accused shall be based on 'evidence submitted and discussed before it at the trial'.

40. Following the established practice of the Court, the Chamber adopted the 'submission approach' to the introduction of evidence.[75] Consequently, it decided not to rule on the admissibility of each item of evidence during the course of the proceedings, other than on the basis of any procedural bars such as those under article 69(7) of the Statute or concerning the procedural requirements for the introduction of prior recorded testimony under rule 68 of the Rules. Following the applicable procedure for the submission of evidence,[76] the Chamber recognised 3,863 items of evidence as submitted within the meaning of article 74(2) of the Statute.

41. In respect of the requirement pursuant to article 74(2) of the Statute that submitted

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[73] *Lubanga* Appeal Judgment, ICC-01/04-01/06-3121-Red, para. 22; *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 127; *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 19; *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 227; *Ntaganda* Trial Judgment, ICC-01/04-02/06-2359, para. 45.

[74] *Ngudjolo* Appeal Judgment, ICC-01/04-02/12-271-Corr, para. 109, quoting *Rutaganda* Appeal Judgment, para. 488; *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 168; *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 128; *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 20; *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 228.

[75] *See* *Bemba et al*. Appeal Judgment, ICC-01/05-01/13-2275-Red, paras 583-592; *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 132; *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 23; *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 237.

[76] *See* Directions on the Conduct of Proceedings, ICC-01/14-01/21-251, paras 15-24. The Chamber notes that, in respect of items used during a hearing, it originally adopted a process whereby the parties and participants would send an email after the conclusion of a witness's testimony identifying items they wished to have formally submitted into evidence, following which the Chamber would send an email identifying the items it recognised as being formally submitted (*see* Directions on the Conduct of Proceedings, ICC-01/14-01/21-251, para. 22). The Chamber recalls that during the trial, and without objection from the parties, it modified and streamlined this procedure and adopted a process whereby items used during a hearing were recognised as formally submitted immediately in court, rather than via email after the witness had finished testifying (*see* Email from the Chamber to the Parties, dated 2 April 2024 at 13:41 and related annex).

evidence be 'discussed before it at the trial', the Chamber recalls that the Appeals Chamber has interpreted this requirement to mean that the parties must at least have had a genuine opportunity to make arguments on the evidence, regardless of whether they have actually availed themselves of this opportunity.[77] Furthermore, the Chamber notes that the opportunity to 'discuss' evidence can take the form of written submissions as well as oral submissions before the Chamber.[78]

42. The Chamber recalls that in the Fourth Directions on the Conduct of Proceedings, it provided further guidance to the parties and participants on its interpretation of this requirement.[79] The Chamber informed the parties that if they wished the Chamber to consider a particular item of evidence, they must reference it specifically and provide a short explanation of the point or points they wished to raise in relation to such items, if this was not already clear from the context.[80] In the Fourth Directions on the Conduct of Proceedings, the Chamber also noted that although it would consider the totality of the testimonial evidence in the case, it was incumbent on the parties to indicate the parts of the testimony they considered relevant and to ensure that the relevance and probative value thereof were clear.[81] To the extent that the parties wished to rely on circumstantial evidence, the Chamber stated that it would be of assistance if the parties explained which inference they wished the Chamber to draw from the specific evidence relied upon in relation to a particular proposition.[82]

43. The Defence complains that the Prosecution failed to introduce the evidence of a number of witnesses whom it had interviewed and taken statements from and who had pertinent information on events at the time, including P-1019 ([REDACTED]), P-0413 ([REDACTED]), P-0964 ([REDACTED]), P-0234 ([REDACTED]), P-0348 ([REDACTED]), P-1466 ([REDACTED]), P-0384 ([REDACTED]), P-0952 ([REDACTED]), P-2255 ([REDACTED]), P-0225 ([REDACTED]), P-0626

[77] *Bemba et al.* Appeal Judgment, ICC-01/05-01/13-2275-Red, para. 576, n. 1256. *See also* *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 249.
[78] *Bemba* Trial Judgment, ICC-01/05-01/08-3343, para. 224.
[79] Fourth Directions on the Conduct of Proceedings, ICC-01/14-01/21-932, paras 27-29. The Chamber notes that neither party raised any objections to the Chamber's approach.
[80] Fourth Directions on the Conduct of Proceedings, ICC-01/14-01/21-932, para. 29.
[81] Fourth Directions on the Conduct of Proceedings, ICC-01/14-01/21-932, para. 29.
[82] Fourth Directions on the Conduct of Proceedings, ICC-01/14-01/21-932, para. 29.

([REDACTED]) and P-0627 ([REDACTED]).[83] The Chamber notes that despite having access to the statements taken by the Prosecution, the Defence made no attempt to introduce the statements of these witnesses into evidence. Nevertheless, the Defence Closing Brief contains several references to the statements given by these individuals to the Prosecution, which is justified at times by an indication that the section quoted was presented to a witness in court.[84] In accordance with article 74(2) of the Statute, the Chamber has not taken into account statements that have not been submitted into evidence for the purposes of this judgment. For the avoidance of doubt, reading a part of a statement of a third party to a witness merely puts forward a proposition for a witness to comment on. It does not mean that the relevant portion of the statement of the third party is introduced as independent stand-alone evidence in the case.

44. Where the parties and participants did raise arguments in relation to evidence submitted during the course of the proceedings, the Chamber has duly considered those arguments. In this regard, the Chamber is obliged to note that the version of events put forward by the Defence in its closing brief is sometimes based on a piecemeal analysis of the evidence, which selectively quotes witness statements in a manner which does not reflect the testimony of the witness and disregards contradictory evidence. At times, the Chamber observes that the Defence relies on contradictory interpretations of the same evidence. The Chamber recalls that 'to fulfil its obligation to provide a reasoned opinion' under article 74(5) of the Statute, it 'is not required to address all the arguments raised by the parties [and participants], or every item of evidence relevant to a particular factual finding, provided that it indicates with sufficient clarity the basis for its decision'.[85] As confirmed by the Appeals Chamber, trial chambers have a degree of discretion as to what to address explicitly in their reasoning, as long as sufficient reasons are provided for their determinations.[86] In the evidentiary analysis that follows, the Chamber has set out its

[83] Defence Trial Brief, ICC-01/14-01/21-449-Red, para. 147 *et seq*; Defence Trial Brief, ICC-01/14-01/21-449-Conf, para. 147 *et seq*. Defence Closing Brief, ICC-01/14-01/21-1039-Red, paras 11-13, 66-67, Defence Closing Brief, ICC-01/14-01/21-1039-Conf, paras 11-13, 66-67.
[84] Defence Closing Brief, ICC-01/14-01/21-1039-Red, paras 21, 43, 76, 80, 85, 286, 355, 368, 373, 631, 635.
[85] *Bemba et al*. Appeal Judgment, ICC-01/05-01/13-2275-Red, paras 105-106; *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 131; *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 26; *Ntaganda* Trial Judgment, ICC-01/04-02/06-2359, para. 52.
[86] *Bemba* Appeal Judgment, ICC-01/05-01/08-3636-Red, paras 53-55; *Bemba et al*. Appeal Judgment, ICC-01/05-01/13-2275-Red, paras 105-107. *See also* *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 162; *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 131; *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 26; *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 247; *Ntaganda* Trial Judgment, ICC-01/04-02/06-2359, para. 52.

reasoned assessment of the evidence as a whole and did not extensively engage with arguments that do not accurately represent the evidence.

45. In respect of its overall assessment of the evidence submitted and discussed at trial, the Chamber has assessed the relevance, probative value and potential prejudice of such evidence. This assessment was carried out by the Chamber as part of its holistic assessment of the evidence when deciding on the guilt or innocence of Mr Said in the present judgment, although it may not necessarily discuss in the judgment every item of evidence assessed.[87]

3. Circumstantial evidence

46. Circumstantial evidence is evidence which does not directly prove a fact in dispute, but which allows the Chamber to draw an inference about the existence or non-existence of a fact based on the evidence.[88] Its cogency depends on the unlikelihood of coincidence, that is the extent to which events can be explained rationally only by the existence of the inferred fact.[89] It is different from direct evidence, which establishes the existence or non-existence of a fact on its own.[90]

47. Nothing in the Court's legal framework precludes the Chamber from drawing inferences based on circumstantial evidence, nor does the beyond reasonable doubt standard of proof or the principle *in dubio pro reo* require that such evidence be excluded.[91] Accordingly, the Chamber may reach a conclusion beyond reasonable doubt based on circumstantial evidence when it is the only reasonable inference to be drawn from the relevant facts.[92] The Chamber recalls that it is not required to articulate every step of its reasoning that led to such a conclusion.[93] However, when the Chamber has made an

[87] *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 163; *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 133.
[88] *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 173.
[89] *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 173.
[90] *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 173.
[91] *Bemba et al*. Appeal Judgment, ICC-01/05-01/13-2275-Red, para. 1386; *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 174; *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 136; *Ntaganda* Trial Judgment, ICC-01/04-02/06-2359, para. 69; *Katanga* Trial Judgment, ICC-01/04-01/07-3436-tENG, para. 109; *Lubanga* Trial Judgment, ICC-01/04-01/06-2842, para. 111.
[92] *Bemba et al*. Appeal Judgment, ICC-01/05-01/13-2275-Red, paras 868, 1166; *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 176; *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 136; *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 21; *Ntaganda* Trial Judgment, ICC-01/04-02/06-2359, para. 70; *Katanga* Trial Judgment, ICC-01/04-01/07-3436-tENG, para. 109; *Lubanga* Trial Judgment, ICC-01/04-01/06-2842, para. 111.
[93] *Bemba et al*. Appeal Judgment, ICC-01/05-01/13-2275-Red, para. 870; *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 136; *Ntaganda* Trial Judgment, ICC-01/04-02/06-2359, para. 70.

essential finding based on an inference, it has explained in detail how it reached the factual conclusion in question.[94]

4. Hearsay evidence

48. In its holistic assessment of the evidence, the Chamber also considered hearsay evidence, meaning, in this context, information that is not based on what a witness has direct knowledge of, but what he or she has been told by others and which is offered in evidence to prove the truth of the matter asserted. As noted by the Appeals Chamber, there is no procedural bar to the introduction of or reliance on hearsay evidence in the Court's legal framework.[95] The fact that evidence is hearsay does not necessarily deprive it of probative value. While the weight or probative value afforded to it may be lower,[96] this ultimately 'depend[s] upon the infinitely variable circumstances which surround hearsay evidence'.[97]

49. Two specific circumstances that frequently arose in the context of the evidence in this case merit specific mention. First, the Chamber considered evidence of out-of-court statements that were uttered during or in the immediate aftermath of shocking or traumatic events. In such circumstances, where the person making the original utterance was still cognitively immersed in and emotionally overwhelmed by the events at the time of making the statement, the Chamber generally considered that the probability of the statement being fabricated was low and, absent other considerations, weighed the evidence accordingly.

50. Second, the Chamber heard hearsay evidence from witnesses who received the information from other persons in the course of their official functions. For example, the Chamber received evidence from a number of neighbourhood chiefs or *chefs de quartier*

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[94] *Bemba et al*. Appeal Judgment, ICC-01/05-01/13-2275-Red, para. 870; *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 176; *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 136; *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 21; *Ntaganda* Trial Judgment, ICC-01/04-02/06-2359, para. 70.

[95] *Bemba et al*. Appeal Judgment, ICC-01/05-01/13-2275-Red, para. 874, referring to *Ngudjolo* Appeal Judgment, ICC-01/04-02/12-271-Corr, para. 226, *Aleksovski* Decision on Admissibility of Evidence, para. 15. *See also* *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 170; *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 135; *Ntaganda* Trial Judgment, ICC-01/04-02/06-2359, para. 67.

[96] *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 135; *Ntaganda* Trial Judgment, ICC-01/04-02/06-2359, para. 67.

[97] *Ngudjolo* Appeal Judgment, ICC-01/04-02/12-271-Corr, para. 226, referring to *Aleksovski* Decision on Admissibility of Evidence, para. 15. *See also* *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 171; *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 135; *Ntaganda* Trial Judgment, ICC-01/04-02/06-2359, para. 67.

and assistants to *chefs de quartier* in Bangui. These persons are important figures of authority who have unique oversight over the communities for which they are responsible and carry out a myriad of responsibilities reflecting their status and integrity.[98] As trusted community leaders, *chefs de quartiers* regularly receive reports from members of their communities and they and their assistants possess a high degree of knowledge about events and people in their neighbourhoods.[99] In its case-by-case evaluation of the evidence, the Chamber generally found indirect evidence provided by *chefs de quartiers* and their assistants to be reliable, and, absent other considerations, weighed the evidence accordingly.

51. In all circumstances, the Chamber has evaluated hearsay evidence on a case-by-case basis, taking into account the context and conditions in which such evidence was obtained and with due consideration of the impossibility of questioning the information source in court.

5. Corroboration

52. The Chamber has imposed no legal requirement of corroboration in accordance with rule 63(4) of the Rules. As held by the Appeals Chamber,

> trial chambers enjoy broad discretion in assessing inconsistencies within the evidence and in deciding whether corroboration is necessary. In this respect, as the ICTR Appeals Chamber has previously stated, different testimonies do not need to 'be identical in all aspects or describe the same fact in the same way. Every witness presents what he has seen from his own point of view at the time of the events, or according to how he understood the events recounted by others'. Accordingly, while testimonies need not be identical in all aspects, they must confirm, even if in different ways, the same fact.[100]

53. The Appeals Chamber has also clarified that '[d]epending on the circumstances, a single piece of evidence […] may suffice to establish a specific fact. However, […] this does not mean that *any* piece of evidence provides a sufficient evidentiary basis for a factual finding'.[101] The extent to which a piece of evidence, standing alone, is sufficient to prove a fact at issue is entirely dependent on the issue in question and the strength of the

[98] *See* [REDACTED].
[99] [REDACTED].
[100] *Ntaganda* Appeal Judgment, ICC-01/04-02/06-2666-Red, para. 672; *Gbagbo and Blé Goudé* Appeal Judgment, ICC-02/11-01/15-1400, para. 357, referring, *inter alia*, to *Nahimana et al.* Appeal Judgment, para. 428.
[101] *Lubanga* Appeal Judgment, ICC-01/04-01/06-3121-Red, para. 218 (emphasis in original). *See also Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 138; *Ntaganda* Trial Judgment, ICC-01/04-02/06-2359, para. 75.

evidence under consideration.[102] The Appeals Chamber confirmed that there is no error in relying exclusively on the testimony of a single witness in order to make a finding, provided that the evidence was reliable and credible.[103] The Appeals Chamber has also found that 'while corroboration is "an element that a reasonable trier of fact may consider in assessing the evidence", the question of whether or not to consider it forms part of the Trial Chamber's discretion'.[104]

54. The Chamber has adopted a case-by-case approach in its assessment of the evidence, depending on the circumstances of the facts to be proven and the evidence presented.[105] Accordingly, in some situations the Chamber considered that a single piece of evidence was sufficient to prove a fact beyond reasonable doubt. Similarly, in some instances, the Chamber has relied on the evidence of a single witness concerning factual allegations underlying an entire incident.[106] In other situations, the Chamber considered the applicable standard to be reached on the basis of a sum of several pieces of evidence.

6. Identification evidence

55. The Chamber exercised caution in assessing identification evidence 'due to "the vagaries of human perception and recollection", in particular, where identification is made "in turbulent and traumatising circumstances"'.[107]

56. When assessing identification evidence, the Chamber considered, as relevant and among other considerations: (i) the circumstances in which a witness observed a person; (ii) the state of the light; (iii) the length of the observation; (iv) the distance between the identified person and the witness; (v) any obstruction to the observation; (vi) whether the

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[102] *Ntaganda* Trial Judgment, ICC-01/04-02/06-2359, para. 75; *Bemba* Trial Judgment, ICC-01/05-01/08-3343, para. 245; *Katanga* Trial Judgment, ICC-01/04-01/07-3436-tENG, para. 110; *Lubanga* Trial Judgment, ICC-01/04-01/06-2842, para. 110.
[103] *Ntaganda* Appeal Judgment, ICC-01/04-02/06-2666-Red, paras 971, 988. *See also* *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 181.
[104] *Ngudjolo* Appeal Judgment, ICC-01/04-02/12-271-Corr, para. 148, quoting *Mrkšić and Šljivančanin* Appeal Judgment, para. 264, and referring to *Limaj et al.* Appeal Judgment, para. 203. *See also* *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 138; *Ntaganda* Trial Judgment, ICC-01/04-02/06-2359, para. 75.
[105] *See*, *similarly* *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 181; *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 22; *Ntaganda* Trial Judgment, ICC-01/04-02/06-2359, para. 76; *Bemba* Trial Judgment, ICC-01/05-01/08-3343, para. 246; *Katanga* Trial Judgment, ICC-01/04-01/07-3436-tENG, para. 110; *Lubanga* Trial Judgment, ICC-01/04-01/06-2842, para. 110.
[106] *Contra* Defence Closing Brief, ICC-01/14-01/21-1039-Red, paras 352-359.
[107] *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 207; *Ntaganda* Trial Judgment, ICC-01/04-02/06-2359, para. 71, referring to *Kunarac et al.* Appeal Judgment, para. 324; *Bemba* Trial Judgment, ICC-01/05-01/08-3343, para. 241, quoting *Kunarac et al.* Trial Judgment, para. 561; and referring to *Kupreškić et al.* Appeal Judgment, paras 34, 39, 134-135.

witness had ever seen the individual before and, if so, the number of times and in what circumstances; (vii) any interactions between the witness and the identified person; (viii) self-identification by the individual concerned; (ix) the manner in which the witness described the person and whether it was consistent with the description of that person provided by other witnesses; and (x) the nature of the event at which the identification was made and whether it was unexpected, fast-moving, shocking and/or involved a large number of persons.[108] The Chamber notes that where a single identifying factor or piece of evidence was not sufficient to establish the identification beyond reasonable doubt, the Chamber could still be satisfied based on the cumulative effect of the relevant evidence as a whole.[109]

57. The Chamber took into account various additional criteria in considering evidence identifying Mr Said and the co-perpetrators in the context of their activities at the OCRB. These include the position and role of the accused and the co-perpetrators at the time of the charges, the presence at and control over the OCRB by the co-perpetrators, descriptions of the physical appearance, language(s) used, origins or ethnicity of the person and whether evidence about the individuals' presence, behaviour or involvement in events was consistent with other evidence about the roles and activities of the relevant individuals.[110]

58. The Chamber notes that the spelling of the names of some individuals varied or the full names of the individuals concerned were not given by witnesses in the statements recorded by Prosecution investigators and in the transcripts of testimony delivered in court. Noting that certain names were quite common, the Chamber adopted a cautious approach in such instances and carefully assessed, based on the full information given by the witness, whether the individual mentioned was indeed the individual of interest to the

[108] *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 210; *Ntaganda* Trial Judgment, ICC-01/04-02/06-2359, paras 72-73; *Bemba* Trial Judgment, ICC-01/05-01/08-3343, para. 242.
[109] *Bemba* Trial Judgment, ICC-01/05-01/08-3343, para. 244, referring to *Limaj et al.* Appeal Judgment, paras 153-154, 285. *See also* *Ntaganda* Trial Judgment, ICC-01/04-02/06-2359, para. 74.
[110] *Bemba* Trial Judgment, ICC-01/05-01/08-3343, para. 243, referring to *Ngudjolo* Appeal Judgment, ICC-01/04-02/12-271-Corr, para. 88; *Đorđević* Appeal Judgment, n. 2671; *Šainović et al.* Appeal Judgment, paras 488, 491; *Fofana et al.* Appeal Judgment, para. 214; *Case 002/02* Trial Judgment, paras 464-472, n. 1371, 1397; *Katanga* Trial Judgment, ICC-01/04-01/07-3436-tENG, paras 215, 618, 693-694, 732, 734-736, 745-748, 755, 842-848, 933-939, 1334, 1342, 1347, 1350, 1353, 1358-1365; *Ngudjolo* Trial Judgment, ICC-01/04-02/12-3-tENG, paras 323, 328, 337; *Taylor* Trial Judgment, paras 733, 735, 1271 to 1272, 1703, and 1710; *Nyiramasuhuko et al.* Trial Judgment, paras 410, 1295; *Sesay et al.* Trial Judgment, paras 1512-1514; *Boškoski and Tarčulovski* Trial Judgment, paras 47-49, 59-60; *Brima et al.* Trial Judgment, paras 547, 933-938. *See also* *Ntaganda* Trial Judgment, ICC-01/04-02/06-2359, para. 73.

Chamber. When so satisfied, the Chamber uses the spelling of the name of the person as set out in the Prosecution briefs. The Chamber refers to Mr Said as Mr Said, Colonel Said or Mahamat Said depending on the context and the evidence under consideration.

59. In relation to Mr Said specifically, the Chamber notes that a number of witnesses who were detained at the OCRB did not mention Mr Said's name when they gave their original statements to Prosecution investigators, but discussed an unidentified colonel or commander whom they subsequently identified as Mr Said during the process of certifying their statements under rule 68(2)(b) of the Rules,[111] immediately prior to their in-court testimony,[112] and/or during their testimony in court.[113] In the case of the witnesses who identified Mr Said during the certification process under rule 68(2)(b) of Rules, the Chamber rejected the introduction of their statements under rule 68(2)(b) of the Rules and allowed the introduction of their prior recorded testimony and associated materials under rule 68(3) of the Rules so that the evidence could be tested in court.[114] In all cases of subsequent identification of Mr Said, the Chamber considered the information previously provided by the witness in relation to the unidentified colonel or commander and whether it was consistent with information on the record regarding Mr Said, whether the witness could identify Mr Said in photographs of him that were contemporaneous with the events in 2013, and any explanation offered by the witness as to how they subsequently came to identify the person as Mr Said.[115]

7. Testimonial evidence

a) Introduction of testimonial evidence

60. During the trial, the Chamber received the evidence of 81 Prosecution witnesses and seven Defence witnesses.

61. Of the Prosecution witnesses, 25 witnesses testified fully *viva voce*, either at the seat of the Court or via video-link, and 33 testified *viva voce* and had their prior recorded

[111] P-0529; P-2239.
[112] P-1289 (Incident A); P-2692 (Incident C); P-3064 (Incident M).
[113] P-0622 (Incident E); P-1289 (Incident A); P-2692 (Incident C); P-3064 (Incident M).
[114] Decision on Certification of Prosecution Declarations, ICC-01/14-01/21-833-Red, paras 46-52. The Chamber notes that in court, P-0529 testified that the person in charge of the OCRB was Abdel Kalile: P-0529: T-118, pp. 19-20 and not Mahamat Said Kalil as he had previously indicated (addendum to P-0529's prior recorded testimony, CAR-OTP-00001310, at 000001-000002).
[115] *Ntaganda* Trial Judgment, ICC-01/04-02/06-2359, para. 72; *Bemba* Trial Judgment, ICC-01/05-01/08-3343, para. 242.

testimony introduced under rule 68(3) of the Rules, with the parties, the legal representative of victims and the Chamber having had the opportunity to examine the witnesses. 16 witnesses had their prior recorded testimony introduced under rule 68(2)(b) of the Rules. Seven witnesses who were unavailable to testify orally had their prior recorded testimony introduced under rule 68(2)(c) of the Rules.

62. Of the Defence witnesses, three witnesses testified fully *viva voce* and four had their prior recorded testimony introduced under rule 68(2)(b) of the Rules.

63. The calling party was afforded the opportunity to speak to its witnesses in advance of their evidence being presented in court and to carry out witness preparation.[116] Any changes made to the witnesses' prior statements or additional information provided were recorded in an annex to the witness preparation log and signed by the witness.[117] In the case of witnesses whose previously recorded testimony was introduced under rule 68(3) of the Rules (all of whom were Prosecution witnesses), the annexes to the witness preparation logs were generally also introduced into evidence under rule 68(3) of the Rules as addendums to the previously recorded testimony.[118] However, when witnesses provided significant new information in the context of witness preparation, the Chamber excluded part of the information provided,[119] or did not permit the introduction of the annex to the witness preparation log into evidence.[120]

64. In authorising the introduction of prior recorded testimony under rule 68 of the Rules, the Chamber had careful regard to the principle of orality in order to ensure that it heard sufficient oral evidence in relation to each aspect of the case during the course of the trial.[121] As a general rule, the Chamber did not authorise the introduction of prior

[116] *See* Annex A to the Directions on the Conduct of Proceedings, ICC-01/14-01/21-251-AnxA.
[117] Annex A to the Directions on the Conduct of Proceedings, ICC-01/14-01/21-251-AnxA, paras 12-15, 19, 31-32. *See, for example*, addendum to P-2400's prior recorded testimony, CAR-OTP-00000458, at 000004.
[118] *See* the Chamber's ruling in relation to P-2400: P-2400: T-030, p. 31.
[119] *See, for example*, P-2263: T-058, pp. 2-4, 19-20, referring to addendum to P-2263's prior recorded testimony, CAR-OTP-00036082 (clarification regarding paragraph 20 excluded); P-0529: T-118, pp. 15, 21, referring to addendum to P-0529's prior recorded testimony, CAR-OTP-00037497 (references to Mr Said's name and additions regarding PK9 minibus being at the OCRB excluded).
[120] *See, for example*, P-1289: T-050, p. 12, referring to email from the Chamber to the Parties, dated 29 January 2024, at 18:28; P-2400: T-030, p. 31, referring to addendum to P-2400's prior recorded testimony, CAR-OTP-00000458.
[121] *See generally* [REDACTED]. *See, for example*, relating to specific witnesses [REDACTED], paras 94-96, 138-139, 145-146. The Chamber also kept its assessment regarding rule 68 statements under review as the evidence unfolded and subsequently revoked the authorisation for the introduction of the statements of two witnesses under rule 68(3) of the Rules and ordered the Prosecution to call them as fully *viva voce* witnesses: Fourth Prosecution Rule 68(3) Decision, ICC-01/14-01/21-685-Red.

recorded testimony under rule 68(2)(b) of the Rules where there were material inconsistencies or issues to be clarified in the information provided by the witnesses.[122] The Chamber also rejected rule 68(2)(b) requests in respect of witnesses who provided information about the commander of the OCRB and where the person had not been identified further;[123] witnesses who mentioned the name of the accused for the first time during the process of affirming the truth of their prior recorded statement;[124] witnesses who may have had further information of relevance to the Defence presentation of evidence that was not expected to be elicited from other witnesses;[125] and victims of the charged crimes where they were the sole witness for those incidents.[126] In the circumstances of this case, given the confined number of charged incidents and the alleged proximity of the accused to the charged crimes, the Chamber considered it particularly important to afford the Defence the opportunity to examine such witnesses on the substance of their testimony.

65. The Chamber also rejected rule 68(3) requests in respect of: (i) Seleka insider witnesses stationed at the OCRB, given that they were likely in a position to provide significant evidence regarding the accused and were themselves potentially involved in the events that are the subject of this case;[127] (ii) witnesses in a position to provide significant information where their prior recorded statements contained certain inconsistencies;[128] and (iii) victims of crimes who were in a position to provide potentially significant evidence.[129] In those instances, the Chamber preferred to hear the witnesses fully *viva voce*.

66. With respect to prior recorded testimony introduced under rule 68(3) of the Rules specifically, the Chamber considers that such testimony forms an integral part of the witness's *viva voce* testimony.[130] Accordingly, it has been considered together with and

[122] [REDACTED], paras 65-68, 100-103, 104-106; [REDACTED]; Fourth Prosecution Rule 68(2)(b) Decision, ICC-01/14-01/21-555-Red, paras 81-84.
[123] [REDACTED].
[124] Decision on Certification of Prosecution Declarations, ICC-01/14-01/21-833-Red, paras 46-54.
[125] Second Prosecution Rule 68(2)(b) Decision, ICC-01/14-01/21-551-Red, paras 12-14.
[126] Fourth Prosecution Rule 68(2)(b) Decision, ICC-01/14-01/21-555-Red, paras 18-19, 24-25, 47-48, 71-73.
[127] [REDACTED].
[128] [REDACTED].
[129] [REDACTED].
[130] *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 190; *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 195; *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 34; *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 252.

in the light of the witness's testimony given in court, and *vice versa*.[131] The Chamber is satisfied that the introduction of prior recorded testimony under rule 68(3) of the Rules is not inconsistent with the principle of orality, noting that the non-tendering party had the opportunity to examine the witness in court.

67. In the interest of ensuring the expeditious conduct of proceedings, the Chamber accorded time for the examination of rule 68(3) witnesses by the opposing party based on the calling party's initial time estimates of the duration that its examination would take had rule 68(3) of the Rules not been utilised.[132] In practice, the Chamber used these time estimates as a guide and allowed more time for Defence examination of witnesses when necessary.[133] It must be observed that the Defence used a significant portion of the time afforded to it to examine Prosecution witnesses on issues of unclear relevance to the substance of the case, for example, about their educational and professional backgrounds, family members, and interactions with the Prosecution. For each Prosecution witness, the Chamber ensured, based on the time allocated and the manner in which the questioning proceeded, that the Defence had every opportunity to pursue useful and relevant lines of examination.

68. In addition to the considerations generally applicable to the assessment of testimonial evidence as set out below, in its evaluation of the prior recorded testimony introduced under rule 68(2)(b) and (c) of the Rules, the Chamber took into account that the witnesses concerned did not testify before the Court and the non-tendering party did not have the opportunity to examine them. Additionally, in respect of prior recorded testimony introduced under rule 68(2)(c) of the Rules, the Chamber took into consideration that the written statement was not accompanied by the formal declaration as to the truth of its contents set out under rule 68(2)(b)(ii) and (iii) of the Rules.

69. The Chamber has also ensured that the present judgment does 'not rest solely, or in a decisive manner, on the evidence of a witness whom the accused has had no opportunity to examine or to have examined either during the investigation or at trial'.[134] As with

[131] *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 190; *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 195; *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 34; *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 252.
[132] Additional Directions on the Conduct of Proceedings, ICC-01/14-01/21-479, paras 16-17.
[133] *See*, *for example*, P-0349: T-096, pp. 3, 46; P-0119: T-084, pp. 44-46, 49; P-1167: T-034, pp. 25, 32; P-1743: T-089, pp. 24-25, 29; P-0664: T-101, pp. 3, 58, 62; P-3112: T-122, pp. 21-26; P-0491: T-099, p. 60.
[134] *See* [REDACTED], para. 39, referring to *Ntaganda* Appeal Judgment, ICC-01/04-02/06-2666-Red, para. 629.

other types of evidence submitted before the Chamber, arguments made by the parties and participants in the course of the trial concerning the relevance and probative value of this testimonial evidence have been taken into account for the purpose of the present judgment and are explicitly addressed as appropriate.

b) General assessment of credibility and reliability

70. The Chamber has assessed the credibility and reliability of the testimony of each witness and has evaluated the weight to be given to it in relation to the relevant issues.

71. In its analysis of testimonial evidence, the Chamber has taken into account a number of different factors including the following: (i) the richness of detail and coherence of the narrative provided by the witness, as well as the coherence of the testimony with other evidence before the Chamber;[135] (ii) the individual circumstances of the witness, including age, literacy and educational level in particular where this may have impacted their understanding of exhibits shown to them, their relationship with other witnesses and the accused, relationship to the opposing parties to the conflict, any involvement they may have had in the events under consideration, the provision of assurances against self-incrimination, indication of bias against the accused or the lack thereof, and motives for giving evidence and either telling the truth or providing false testimony;[136] (iii) the traumatic nature of events, considering the context and specific impact on the witness;[137] and (iv) whether and to what extent the witness is, or is not, in a position to provide certain information and the source of their knowledge.[138] The last consideration is particularly significant in those instances when there are competing versions of events,

[135] *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 194; *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 197; *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 37; *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 255; *Bemba et al.* Trial Judgment, ICC-01/05-01/13-1989-Red, para. 203.
[136] *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 194; *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 201; *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 41; *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 258; *Bemba et al.* Trial Judgment, ICC-01/05-01/13-1989-Red, para. 202; *Ngudjolo* Trial Judgment, ICC-01/04-02/12-3-tENG, para. 51; *Lubanga* Trial Judgment, ICC-01/04-01/06-2842, para. 106.
[137] *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 194; *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 201; *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 258; *Bemba et al.* Trial Judgment, ICC-01/05-01/13-1989-Red, para. 203; *Ngudjolo* Trial Judgment, ICC-01/04-02/12-3-tENG, para. 49. *See also* *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 41.
[138] *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 200; *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 39; *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 257.

and the Chamber has to determine which evidence it considers more probative.[139]

72. Further factors that might have an influence on the assessment of evidence given by *viva voce* witnesses are the Chamber's immediate impression of the witness during their testimony, the witness's demeanour and bearing when testifying in court, spontaneity when responding and willingness to respond to questions and to admit limitations.[140]

73. The Chamber has also considered the coherence between the testimony given by the witness and their prior accounts in relation to the same facts. The Chamber notes that occasionally, in the course of the trial, witnesses who testified orally were asked questions in relation to prior accounts they gave in other contexts. Such questions were generally put to witnesses in two distinct situations: (i) when a witness declared themselves unable to respond to a question, in which case a prior account was used to refresh their memory; and (ii) in cases where there existed, in the assessment of the examining party, a discrepancy between the statement given in court and a prior account.[141] In both cases, the witnesses were then given an opportunity to express themselves on the accuracy and truthfulness of their prior accounts, and the relevant part of the prior account, as read out in court, to this extent became incorporated into their testimony.[142] In case of discrepancy between an in-court testimony and a prior account, the Chamber has carefully considered the content and all circumstances in which the prior account had been given, including, but not limited to, its context, purpose and the (expected) level of detail, as well as any explanation for the discrepancy provided by the

[139] *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 200; *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 257, referring to *Munyakazi* Appeal Judgment, para. 118; *Muvunyi* Appeal Judgment, para. 57; *Muhimana* Appeal Judgment, para. 103; *Gacumbitsi* Appeal Judgment, para. 81; *Rutaganda* Appeal Judgment, paras 29, 501.
[140] *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 202; *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 40; *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 259.
[141] *See, similarly* *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 205; *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 198; *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 256, referring to *Bemba et al*. Appeal Judgment, ICC-01/05-01/13-2275-Red, para. 307 and more generally, paras 305-308.
[142] *See, similarly* *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 205; *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 199; *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 256, referring to *Bemba et al*. Appeal Judgment, ICC-01/05-01/13-2275-Red, para. 307 and more generally, paras 305-308. In the case of prior recorded testimony (provided by witnesses who testified live before the Court) introduced under Rule 68(3) of the Rules, such statements were in evidence in their totality, and can be relied upon by the Chamber in its determination of the facts at issue.

witness during the testimony before the Court.[143]

74. The Chamber notes the significant passage of time between the events that are the subject of this case, most of which took place in 2013, and recognises that the memory of some witnesses had faded with regard to certain details when they provided their testimony.[144] In this regard, the Chamber notes that many witnesses were unclear about issues such as dates and time, the specific layout of various locations, in particular the OCRB compound, and details of events. As a general rule, mistakes or inconsistencies in respect of such issues, absent other considerations, have not negatively affected the Chamber's assessment of the credibility or reliability of the witnesses generally.[145]

75. The Chamber also notes that witnesses frequently described close relationships in familial terms and referred to persons who are not related to them as their 'brother', 'sister' or 'cousin'.[146] In assessing such evidence, the Chamber is mindful that in the Central African context, the description and understanding of family relationships does not necessarily align with biological or legal relationships as they might be understood in other parts of the world. Noting that the Defence at times raised purported inconsistencies in this regard, the Chamber clarifies that perceived discrepancies of this nature have not negatively affected its assessment of the credibility or reliability of the witnesses concerned.[147]

76. In certain instances, the Chamber has not relied on part of a witness's account while it has accepted other aspects of his or her evidence, thereby acknowledging that it is possible for a witness to be accurate on some issues and unreliable on others.[148] When

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[143] *See, similarly* *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 205; *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 199; *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 38; *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 256, referring to *Bemba et al.* Appeal Judgment, ICC-01/05-01/13-2275-Red, para. 307 and more generally, paras 305-308.

[144] *See, similarly* *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 194; *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 201; *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 40; *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 258; *Bemba et al.* Trial Judgment, ICC-01/05-01/13-1989-Red, para. 203.

[145] *See, similarly* *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 195.

[146] [REDACTED]; P-0664: T-101, pp. 29-31; [REDACTED]; P-0787: CAR-OTP-2036-0410, at 0428, para. 86; P-0787: T-037, p. 72; addendum to P-0787's prior recorded testimony, CAR-OTP-00000594, at 000006-000007. *See* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 479, Defence Closing Brief, ICC-01/14-01/21-1039-Conf, para. 479, referring to P-0787: T-037, p. 72.

[147] Defence Closing Brief, ICC-01/14-01/21-1039-Red, paras 150, 479, Defence Closing Brief, ICC-01/14-01/21-1039-Conf, paras 150, 479.

[148] *See* *Ngudjolo* Appeal Judgment, ICC-01/04-02/12-271-Corr, para. 168; *Lubanga* Trial Judgment, ICC-01/04-01/06-2842, para. 104. *See also* *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 198; *Al Hassan*

the Chamber rejected part of a witness's testimony, it has invariably considered the impact of that decision as regards the credibility and reliability of the remainder of the individual's evidence, even if these considerations are not expressly articulated in the judgment.

77. The Chamber notes that the Defence challenges the credibility and reliability of 'insider witnesses', stating generally that their evidence should be treated with utmost caution since they may have a motive to assign responsibility for their actions to others.[149] As noted above, the Chamber assessed the potential motives and biases of all witnesses, as well as any relationship they may have to the accused and any involvement they may have had in the events under consideration. The Chamber was particularly mindful of these considerations in considering the credibility of 'insider witnesses'.

78. In a similar vein, the Defence submits that issue of the credibility of the witnesses who were victims of alleged unlawful detention at the OCRB is also highly sensitive in the present case because they are individuals who are suspected of committing offences.[150] Regarding the witnesses who were alleged to be victims of unlawful detention in the OCRB, in addition to the general considerations set out above, the Chamber carefully considered the evidence regarding the reasons for their detention in light of the evidence as a whole. In particular, the Chamber considered on a case-by-case basis and in light of the Defence's arguments whether the witness may have been involved in the commission of a crime and may have a motive to present themselves in a more favourable light given the circumstances.

79. The Chamber clarifies that the considerations outlined above can by no means be considered an exhaustive list of factors, or a 'checklist' of requirements for a witness to be relied upon. Throughout the judgment, the Chamber has evaluated the relevant testimonial evidence, including the credibility and reliability of witnesses, based on the circumstances at hand. Each claim made by a witness has been assessed individually, while, at the same time, taking into account, holistically, the entire body of evidence

Trial Judgment, ICC-01/12-01/18-2594-Red, para. 37; *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 260; *Bemba et al.* Trial Judgment, ICC-01/05-01/13-1989-Red, para. 202.

[149] Defence Trial Brief, ICC-01/14-01/21-449-Red, paras 145-146.

[150] Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 322.

available to the Chamber.[151]

B. SPECIFIC CONSIDERATIONS

1. Testimonial evidence

80. Below, the Chamber sets out its assessment of specific witnesses to the degree that the Chamber considered that the nature and extent of their testimonies, or the volume of issues relating to credibility and reliability, necessitated a more detailed explanation. The Chamber emphasises that these assessments, which are based on the totality of the evidence before the Chamber, must be read in conjunction with the evidentiary discussion below in the present judgment. Indeed, certain aspects relating to the credibility of a number of witnesses and the reliability or probative value of their evidence, as well as to the relevance of their testimony to the Chamber's disposal of the charges against Mr Said, are further addressed, as appropriate, in the relevant evidentiary discussion.

2. Prosecution witnesses

a) P-0291

81. Nicolas Tiangaye, a senior political figure in CAR and the Prime Minister of CAR during the period relevant to the charges, testified pursuant to rule 68(3) of the Rules and his prior recorded testimony, including his oral testimony given in the *Yekatom and Ngaïssona* case, was introduced into evidence.[152]

82. The Chamber considers that Nicolas Tiangaye was well informed about the functioning of the Central African government immediately before and after the coup d'état on 24 March 2013 due to his various positions in Central African State ministries before 2013, as well as his position as the Prime Minister of CAR during the period relevant to the charges. Nicolas Tiangaye proved to have vast knowledge on a variety of topics coming from various sources, including from his direct interactions with Michel Djotodia and senior Seleka members and other political figures in CAR.[153] He not only provided extensive information on the background to the conflict in the CAR, including the Seleka

[151] *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 203.
[152] [REDACTED]; P-0291: T-060, p. 8.
[153] *See, for example*, P-0291: CAR-OTP-2034-0104, at 0115, para. 63; P-0291: T-060, pp. 16-17.

origins and objectives,[154] but also on how the transitional government was set up and administered after 24 March 2013.[155]

83. In the Chamber's view, Nicolas Tiangaye was clearly capable of differentiating in his answers between information he received from other sources and his own perception of events.[156] The witness was forthcoming and provided significant detail concerning events and interactions in which he was personally involved.[157]

84. On the basis of the foregoing, the Chamber concludes that Nicolas Tiangaye was a credible and generally reliable witness.

b) P-0312

85. P-0312 was the mayor of the 7th arrondissement during the Seleka attack of 13 April 2013,[158] and testified fully *viva voce* before the Chamber.[159] He testified regarding the layout, administration and ethnic composition of the 7th arrondissement, the role of administrative authorities in Bangui, the attack of 13 April 2013, as well as information that came to his attention regarding other victims in the aftermath of this attack.

86. The Chamber found P-0312 to be an earnest and credible witness. The Chamber noted that the witness was of an advanced age and holds a position of responsibility and respect within his community.[160] The information he provided regarding the attack on the 7th arrondissement on 13 April 2013 was consistent with the evidence provided by other witnesses.[161]

87. At times, the Chamber noted that P-0312 had difficulty recollecting events that happened a long time ago, but when his prior statement and other evidence was put to him he was sometimes in a position to explain issues in more detail.[162] Nevertheless, there were a number of inconsistencies between his testimony in court and the statement he provided

[154] *See, for example*, P-0291: CAR-OTP-2034-0104, at 0113, para. 51.
[155] *See, for example*, P-0291: T-062, p. 5.
[156] *See, for example*, P-0291: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-051-CONF-ENG, pp. 24-25.
[157] *See, for example*, P-0291: T-062, pp. 16-17.
[158] P-0312: T-097, p. 8. *See also* P-0882: CAR-OTP-2032-0654, at 0660, para. 35; P-2386: CAR-OTP-2135-2792, at 2801, para. 57.
[159] P-0312: T-097.
[160] P-0312: T-097, pp. 5, 8-9.
[161] *See* below paras 700-701, 703-705.
[162] P-0312: T-097, pp. 7-8, 13-21.

to Prosecution investigators in 2016.[163] While this information is not relevant to the present case, it was apparent from his testimony that these inconsistencies were attributable to difficulties recollecting events in the courtroom.

88. On the basis of the foregoing, the Chamber concludes that P-0312's testimony was credible but its reliability was impacted by issues relating to the witness's memory. The Chamber has assessed the reliability of his evidence on a case-by-case basis in light of other evidence before it.

c) P-0338

89. Benjamin Mallo, P-0338, was the Director of the OCRB at various times during the period relevant to the charges and was stationed there until the Seleka left the OCRB at the end of August 2013,[164] testified fully *viva voce*, primarily about the functioning of the OCRB prior to 24 March 2013, his role at the OCRB, the commission of crimes by the OCRB Seleka, and Mr Said's role and knowledge.

90. At the outset, in assessing Benjamin Mallo's credibility, the Chamber took into account the fact that he held a senior position at the OCRB and interacted directly and regularly with Mr Said during the period relevant to the charges, as well as a number of other witnesses stationed at the OCRB.[165] Given the position of the witness during the period relevant to the charges, the Chamber assessed whether Benjamin Mallo may have had any potential motives and biases in testifying and may have had any involvement in the events under consideration (which was also assessed in light of the evidence as a whole).

91. The Chamber considers that Benjamin Mallo provided information that was in line with the type and level of knowledge that could be expected from a senior member of the police with an extensive and direct knowledge of the police administrative structures and the ordinary functioning of the police at the OCRB as well as their relation with the prosecutor's office in Bangui. The Chamber notes that Benjamin Mallo was transparent and forthcoming in sharing details about his own interactions with the Seleka and did not

[163] P-0321: T-097, pp. 47-50, referring to photograph, CAR-OTP-2039-0332 (photograph of demonstration in support of the Seleka) and CAR-OTP-2039-0133 at 0138, paras 33-36; P-0321: T-097, pp. 5-8, 30, referring to CAR-OTP-2039-0133, at 0135, para. 12**.**
[164] *See* below paras 1180-1181.
[165] [REDACTED].

consider these details to reflect negatively on his credibility.[166]

92. In the view of the Chamber, Benjamin Mallo provided measured answers demonstrating a careful reflection of the source of his knowledge.[167] The Chamber also considers that Benjamin Mallo delivered his testimony in a neutral manner and exhibited no apparent motive or incentive to implicate Mr Said. In particular, the Chamber notes that Benjamin Mallo did not demonstrate any bias against Mr Said, despite the strained relations between the police and the Seleka at the OCRB at the time. There were also no indications in Benjamin Mallo's account that he inflated the amount of control Mr Said exercised over the Seleka operations at the OCRB.[168]

93. The Chamber notes that Benjamin Mallo expressed some difficulty in remembering specific dates and commented that he had difficulty pinning down dates during the Seleka period.[169] In the view of the Chamber, these difficulties did not impact his credibility as they are explainable by the passage of time.

94. In the view of the Chamber, Benjamin Mallo's evidence concerning the general organisation of the OCRB Seleka was broadly speaking consistent with the evidence of OCRB Seleka insider witnesses. Furthermore, his evidence concerning the OCRB Seleka not affording procedural guarantees to the detainees was also reflected in the accounts of victim witnesses when assessed holistically.

95. On the basis of the foregoing, the Chamber concludes that Benjamin Mallo was a credible and generally reliable witness.

d) P-0435

96. P-0435, the [REDACTED] throughout the Seleka period,[170] testified pursuant to rule 68(3) of the Rules.

97. The Chamber generally found P-0435 to be credible and noted that the witness was clear,

[166] P-0338: T-018, p. 32.
[167] *See, for example*, P-0338: T-017, pp. 71-72; P-0338: T-019, p. 80; P-0338: T-018, p. 26.
[168] *See, for example*, P-0338: T-018, p. 64; P-0338: T-019, p. 56.
[169] *See, for example*, P-0338: T-018, pp. 35, 55 (acknowledged that he could not comment on the accuracy of a date Josué Binoua replaced Nouradine Adam as Minister of Security); P-0338: T-019, pp. 82-83 (could not recall the date he left the OCRB or when the Seleka left the OCRB); P-0338: T-017, p. 58 (did not recall the exact date of the *Grand rapport* with Nouradine Adam).
[170] P-0435: T-041, p. 8.

forthcoming and cooperative when giving evidence. The witness provided information that was consistent with the level of knowledge that would be expected from a person in that role, indicated when a matter was outside the witness's sphere of knowledge and gave full answers and explanations when in a position to do so.

98. The Defence suggests that the witness's testimony should be treated with caution given the likelihood that it could be influenced by the witness's work with the Seleka regime and current position (in [REDACTED]).[171] The Chamber observes that P-0435 occupied an [REDACTED] at the time of the events that are the subject of this case and that the testimony was focussed on the [REDACTED]. Based on the type of information the witness provided and the forthcoming manner in which the testimony was given, the Chamber is satisfied that there is no indication that the witness would have been motivated to minimise any role in the events that are or may be the subject of criminal prosecution or to attribute responsibility to another. The Chamber further notes that the Defence has not explained why it believes that the witness may have been pressurised to testify differently based on [REDACTED]. In these circumstances, the Chamber is not persuaded that P-0435's testimony should be treated with caution.

99. The Chamber notes the contradictions between P-0435's first and second statements and the statement given during the witness preparation session on the question of whether the [REDACTED].[172] Given the nature of these inconsistencies, the back-and-forth on this matter in each of the statements, and the absence of any in-court clarification of this point by the Prosecution, the Chamber is of the view that P-0435's evidence cannot be relied upon for the purposes of any determination as to whether [REDACTED] in the absence of corroborating evidence. Nevertheless, the Chamber is of the view that the contradictions in the witness's testimony on this limited point do not affect its view of the credibility and reliability of the witness's statement as a whole.

100. Last, the Chamber notes the Defence's arguments that the witness's evidence was

[171] Defence Trial Brief, ICC-01/14-01/21-449-Red, para. 146, Defence Trial Brief, ICC-01/14-01/21-449-Conf, para. 146.
[172] P-0435: CAR-OTP-2017-0036, at 0049, 0052, 0055, 0070, paras 78, 103, 105, 207-208; P-0435: CAR-OTP-2136-0576, at 0578, paras 13-14; addendum to P-0435's prior recorded testimony, CAR-OTP-00000620, at 000004.

contradictory regarding the question of whether [REDACTED].[173] Having considered the relevant portions of the witness's testimony, the Chamber can find no major contradiction in this regard. The [REDACTED] during the relevant time are in evidence and reference to those [REDACTED] shows that there were [REDACTED] than usual, although a limited number of [REDACTED].[174] The witness also indicated that the period at [REDACTED] was a frustrating time as there was little work to carry out and limited involvement in [REDACTED] during this time.[175] Similarly, the witness also noted that [REDACTED] was working on [REDACTED] independently, possibly [REDACTED].[176] The Chamber finds that it is apparent from the witness's statement and [REDACTED] themselves that [REDACTED] was not systematic during the time that P-0435 [REDACTED] compared to the [REDACTED].

101. On the basis of the foregoing, the Chamber concludes that P-0435 was a credible and generally reliable witness.

e) P-0481

102. P-0481, a [REDACTED] when the Seleka took power in March 2013,[177] testified fully *viva voce* about his arrest by the Seleka and subsequent detention at the OCRB in [REDACTED] 2013 (Incident B). He also provided testimony, *inter alia*, regarding crimes allegedly committed by Seleka against other detainees (Incident E [REDACTED]). The Chamber found P-0481 to be a credible and forthcoming witness who was able to provide detailed explanations and clarifications.[178] P-0481's account of having been detained at the OCRB is supported by the release note issued to him and the testimony of P-0622.

103. As explained in detail below,[179] the Chamber is not satisfied that P-0481's evidence was sufficient to allow it to establish the allegations brought by the Prosecution under [REDACTED] beyond reasonable doubt. Nonetheless, it considers this to be a confined issue relating to a lack of detail and insufficiently demonstrated basis of knowledge and

[173] Defence Consolidated Response to Rule 68(3) Requests, ICC-01/14-01/21-417-Corr-Red, para. 171, Defence Consolidated Response to Rule 68(3) Requests, ICC-01/14-01/21-417-Conf, para. 171, referring to P-0435: CAR-OTP-2104-0954, at 0965, 0973, paras 57, 104(b); P-0435: CAR-OTP-2136-0576, at 0579, 0582, paras 19, 30.
[174] [REDACTED].
[175] P-0435: CAR-OTP-2017-0036, at 0045, 0048, paras 51, 69.
[176] P-0435: CAR-OTP-2017-0036, at 0046, para. 56.
[177] P-0481: T-072, pp. 6-10.
[178] *See, for example*, P-0481: T-073, pp. 25, 29, 54-55.
[179] *See* below paras [REDACTED].

does not consider this to impact on P-0481's credibility as a whole.

104. In its response to the rule 68(3) application made with respect to P-0481's prior recorded testimony, the Defence submitted that P-0481's apparent [REDACTED] casts doubt on the reliability of his prior recorded testimony as well as his ability to remain neutral as a witness.[180] During the witness's testimony, the Chamber could not discern any evidence of particular biases on P-0481's part and found no reason to doubt his credibility on this basis. In this regard, the Chamber notes that the manner in which P-0481 described the significance of the involvement of various Seleka figures appeared to be truthful. P-0481 did not mention Mr Said as having been involved in his detention or mistreatment.

105. The Chamber further notes that P-0481 testified that he was tortured by the Seleka at the OCRB, whereas he did not mention being tortured in the complaint that he filed and the statement that he gave before the *Commission Mixte d'Enquête* in 2014 regarding his detention.[181] In general, the Chamber noted that P-0481 was reluctant to provide details regarding the manner in which he was mistreated by the Seleka. He emphasised repeatedly how much he suffered and his emotion was palpable when questioned on this issue.[182] When asked why he had not mentioned being tortured in his 2014 complaint, P-0481 acknowledged that he becomes very emotional when he talks about this event and was in a state of shock, stating that he is 'human and it is normal for [him] to forget details of events that occurred'.[183]

106. The Defence, in its closing brief, argues that this raises questions about the credibility of the witness given that this event, which he declares to be traumatic, is not an event that he can forget or that he can avoid when filing an official complaint specifically about the detention in question.[184] The Chamber did not understand the witness's testimony to signify that he forgot the facts concerning his torture when he filed the complaint before

[180] Defence Consolidated Response to Rule 68(3) Requests, ICC-01/14-01/21-417-Corr-Red, para. 108, Defence Consolidated Response to Rule 68(3) Requests, ICC-01/14-01/21-417-Conf, para. 108. [REDACTED].
[181] Complaint before the *Commission Mixte d'Enquête* dated [REDACTED], CAR-OTP-2005-2526, at 2527; statement before the *Commission Mixte d'Enquête* dated [REDACTED], CAR-OTP-2005-2526, at 2531-2532. The Chamber has also had regard to the fact that the Prosecution's allegations in respect of the torture, particularly in terms of the duration of the mistreatment and whether he was given water to drink, do not appear to be supported by the witness's in-court testimony. The Prosecution alleged that OCRB Seleka forced the witness [REDACTED]. *See* Prosecution Trial Brief, ICC-01/14-01/21-359-Red, para. 143, Prosecution Trial Brief, ICC-01/14-01/21-359-Conf, para. 143.
[182] *See*, *for example*, P-0481: T-072, p. 31.
[183] P-0481: T-073, pp. 42, 48-49.
[184] Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 426.

the *Commission Mixte d'Enquête*. Given the traumatic nature of the mistreatment P-0481 endured and his reluctance to describe and relive this experience even when questioned directly on the issue, the Chamber considers it understandable that it is not described in his 2014 complaint. The Chamber does not entertain any doubt that the limited account given by the witness in court of what he suffered was reliable and credible.

107. The Defence highlights that P-0481 stated that he escaped from detention at the OCRB when he was taken to the court on a date that he could not remember (saying variously that it was on [REDACTED]), while at the same time there is a release document dated [REDACTED] 2013 issued by the prosecutor.[185] The Defence queries why he would have escaped if he was to be released that day and argues that his account is implausible.[186]

108. The Chamber notes that P-0481 exhibited some confusion regarding the date that he escaped or was released, initially testifying that it was [REDACTED] 2013,[187] and later stating that it was [REDACTED] 2013.[188] When questioned as to the discrepancy, he stated that he was traumatised and suffering from loss of memory and that certain mistakes were perhaps attributable to this.[189] As previously indicated, the Chamber does not consider the witness's confusion about dates given the context and the passage of time to be unusual or a reason to question the veracity of his account.

109. As regards whether P-0481 escaped or was released, the witness testified that, when he was taken to the court, he asked [REDACTED].[190] When questioned about the release note, P-0481 stated that it was [REDACTED].[191] The Chamber cannot discern any clear inconsistency in the witness's testimony on this point. To the extent that it is unclear whether P-0481 escaped from the custody of the OCRB Seleka or was released through the prosecutor and the court, the Chamber does not consider this question to be relevant to the crimes alleged or to the credibility of the witness.

110. On the basis of the foregoing, the Chamber concludes that P-0481 was a credible and

[185] Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 425, referring to release note, CAR-OTP-2005-2526, at 2528; P-0481: T-072, p. 40.
[186] Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 425.
[187] P-0481: T-072, p. 40; P-0481: T-073, p. 20.
[188] P-0481: T-073, p. 41.
[189] P-0481: T-073, p. 48.
[190] P-0481: T-072, p. 40.
[191] P-0481: T-073, p. 49.

generally reliable witness.

f) P-0510

111. P-0510 is a [REDACTED] in Bangui during the period relevant to the charges.[192] P-0510 testified pursuant to rule 68(3) of the Rules and provided background and contextual information relevant to the Seleka's advance on Bangui and the treatment of the civilian population once they had taken over Bangui. In particular, P-0510 provided four photographs, which he believed to be of the bodies of the victims of the PK9 Minibus Incident in the Oubangui River.[193]

112. It emerged during P-0510's testimony that a number of [REDACTED] and photographs from [REDACTED], which he claimed were taken during the relevant period in Bangui, were actually taken from online sources and depict events that occurred elsewhere at different times.[194] P-0510 confirmed that efforts were not made to verify information and photographs he received, [REDACTED].[195]

113. On the basis of the foregoing, the Chamber considers P-0510's testimony to be unreliable and will disregard it in its entirety. Nevertheless, in respect of two of the photographs provided by P-0510, which are alleged to be of the victims of the PK9 Minibus Incident,[196] the Chamber notes that they were independently authenticated by a number of other witnesses and therefore the Chamber will rely on them.[197]

g) P-0529

114. P-0529 testified pursuant to rule 68(3) of the Rules and provided evidence relevant to the stop and search of a minibus in PK9 by the Seleka, following which several passengers were killed.

115. P-0529's evidence was originally allowed into evidence under rule 68(2)(b) of the Rules,[198] but during the certification process, P-0529 made substantial changes[199] to his

[192] P-0510: CAR-OTP-2017-0835, at 0837, para. 12.
[193] Photographs of victims, CAR-OTP-2017-0919, CAR-OTP-2017-0920, CAR-OTP-2017-0921, CAR-OTP-2017-0922. *See also* Prosecution Trial Brief, ICC-01/14-01/21-359-Red, para. 70 and references therein.
[194] *See, for example*, P-0510: T-069, pp. 61-68, 72-75.
[195] *See, for example*, P-0510: T-069, pp. 69-71, 74-75.
[196] Photographs of victims, CAR-OTP-2017-0919 and CAR-OTP-2017-0921.
[197] Specifically, P-2573 and P-1808. *See* below paras 743-744.
[198] [REDACTED], paras 107-112, 127-133.
[199] Addendum to P-0529's prior recorded testimony, CAR-OTP-00001310.

prior recorded testimony, which led the Chamber to revoke its provisional authorisation and introduce his testimony under rule 68(3) instead.[200] Specifically, during the certification process, P-0529 mentioned Mr Said for the first time, stating that he had remembered the name of the head of the OCRB at the relevant time, noting that it was 'Mahamat Said Kalil'.[201]

116. In addition, prior to testifying before the Chamber, during his witness preparation session, P-0529 added to the information he previously provided regarding the minibus at PK9, stating that the minibus was taken to the OCRB before it went to Camp de Roux.[202]

117. The Chamber recalls that the Defence objected to the introduction of the addendum to P-0529's prior recorded testimony taken during this witness preparation session, arguing that the new information should be elicited orally in court.[203] In its adjudication of the Defence's objection, the Presiding Judge instructed the Prosecution to question P-0529 on the new information and indicated that the Defence was at liberty to question the witness with respect to anything new that he may have added since the taking of his prior recorded testimony in 2016.[204] Following examination by the Prosecution, and during the introduction of his prior recorded testimony in court, the Presiding Judge indicated that the relevant material was allowed into evidence 'save for the contentious issues relating to the PK9 minibus issue, and the reference to Mr Said's name'.[205] Accordingly, while all the documents relating to P-0529 have been formally submitted,[206] the Chamber will disregard all references to Mr Said and the OCRB made after the taking of his prior recorded testimony in 2016.

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[200] Decision on Certification of Prosecution Declarations, ICC-01/14-01/21-833-Red, paras 46-48.
[201] Addendum to P-0529's prior recorded testimony, CAR-OTP-00001310, at 000001-000002 – 'je connais le nom de la personne qui était le chef de L'OCRB a cette époque. Il s'appelait Mahamat SAID KALIL. À cause de mon travail, je connaissais les noms de quelques chefs des unités Seleka à Bangui, parce que [REDACTED] j'ai eu contact avec ces chefs Seleka. Certains chefs Seleka, y compris Mahamat SAID KALIL, nous cherchaient [REDACTED].'
[202] Addendum to P-0529's prior recorded testimony, CAR-OTP-00037497, at 0001 – 'ERN CAR-OTP-2041-0031: Page 5, paragraphe 27, ligne 2 — Le témoin voudrait ajouter après le mot "véhicule" : "d'abord à l'OCRB ensuite au Camp de Roux".' The Chamber notes that no other witnesses mentioned the OCRB in the context of this event.
[203] *See* P-0529: T-118, pp. 3-5.
[204] *See* P-0529: T-118, pp. 6-7.
[205] *See* P-0529: T-118, p. 21.
[206] The Chamber recalls its previous instruction to the effect that when a document is introduced into evidence, the entirety of that document is deemed formally submitted and not merely sections: *see, for example*, email from the Chamber to the Parties and Participants, dated 31 October 2022, at 14:49.

118. The Chamber considers that these recent additions to P-0529's evidence do not negatively impact his credibility as a whole. In reaching this determination, the Chamber notes that the remainder of P-0529's evidence is largely consistent with that of other witnesses[207] and that during his oral testimony, P-0529 was clear and concise, properly setting out the basis for his knowledge.[208] The Chamber further notes that P-0529 did not speculate on issues about which he did not know,[209] and was forthcoming in providing further details when requested.

119. On the basis of the foregoing, the Chamber concludes that P-0529 was a generally credible and reliable witness.

h) P-0622

120. P-0622, who was [REDACTED], but returned to Bangui [REDACTED] in March 2013 due to the security situation,[210] testified pursuant to rule 68(3) of the Rules,[211] about, *inter alia*, his arrest and detention at the OCRB (Incident E).[212] P-0622's testimony that he was apprehended by the Seleka and taken to the OCRB is corroborated in part by the testimony of P-0481, [REDACTED] (Incident B).[213] Both witnesses testified that P-0622 [REDACTED] were arrested [REDACTED], taken to the Ledger hotel and then to the OCRB.[214]

121. Beyond these essential details, as explained below, the Chamber finds that there were multiple contradictions in the accounts of the two witnesses regarding the detention of P-0622 and there are multiple internal contradictions in the accounts provided by P-0622 on different occasions: (i) in a *'procès-verbal d'audition*' given in November 2014 in the context of a complaint to the *Commission Mixte d'Enquête*;[215] (ii) in his prior recorded testimony, given in [REDACTED] 2016 to Prosecution investigators;[216] and (iii) during

[207] *See*, *for example*, below paras 745, 747.
[208] *See*, *for example*, P-0529: T-118, pp. 44, 46, 51-52.
[209] *See*, *for example*, P-0529: T-118, p. 50.
[210] P-0622: T-071, pp. 16-17, 19, 25-26.
[211] [REDACTED].
[212] Confirmation of Charges Decision, ICC-01/14-01/21-218-Red, p. 55, para. 29(e).
[213] *See* below paras 1207-1208.
[214] The Chamber observes that P-0481 testified that P-0622 [REDACTED] and [REDACTED], he was arrested, taken to the Ledger hotel and then the OCRB (*see* P-0481: T-072, pp. 18-23), which is consistent with P-0622's account that he was arrested [REDACTED], taken to the Ledger Hotel and then transported to the OCRB (*see* P-0622: T-071, pp. 36-37, 52). *See* below paras 1206-1210.
[215] P-0622's *procès-verbal d'audition*, CAR-OTP-2005-2526, at 2529-2530.
[216] P-0622: CAR-OTP-2029-0210; addendum to P-0622's prior recorded testimony, CAR-OTP-00036079, in which he confirmed his prior recorded testimony. *See also* P-0622: T-071, pp. 8-10.

his in-court testimony in May 2024.[217]

122. First, with respect to the date of arrest, in his '*procès-verbal d'audition*', given in the context of P-0481's complaint to the *Commission Mixte d'Enquête*¸ P-0622 stated that he was arrested in [REDACTED] 2013,[218] an account which he maintained when questioned in court and which is corroborated by P-0481.[219] However, in his prior recorded testimony, P-0622 stated that he was arrested on [REDACTED] 2013.[220] Second, with regard to the circumstances of his arrest, the Chamber notes that there are variations between P-0622's different accounts and between his testimony and P-0481's testimony [REDACTED].[221] Third, with regard to the reasons for his arrest, P-0622 initially stated that the [REDACTED],[222] but later asserted that the Seleka accused him and [REDACTED] and supporting François Bozizé.[223] P-0481, on the other hand, stated that he believed that P-0622 [REDACTED].[224] Fourth, P-0622 did not mention the involvement of Mr Said in his detention at the OCRB in his prior recorded statement, but in his in-court testimony mentioned for the first time that he was the Director of the OCRB at the time.[225]

123. Last, the Chamber notes that there are differing accounts with regard to the duration of P-0622's detention at the OCRB. P-0481 stated in his account to the *Commission Mixte d'Enquête* that he and P-0622 were put in different cells, but P-0622 was released

[217] P-0622: T-071.
[218] P-0622's *procès-verbal d'audition*, CAR-OTP-2005-2526, at 2529-2530.
[219] P-0622: T-071, p. 53. *See also* P-0622: T-071, pp. 35, 39; P-0481: T-072, pp. 21-22. *See* below para. 1212. *Contra* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 437, Defence Closing Brief, ICC-01/14-01/21-1039-Conf, para. 437.
[220] P-0622: CAR-OTP-2029-0210, at 0215-0216, 0218, paras 33-41, 52.
[221] While P-0622 testified in court that he was arrested [REDACTED] (P-0622: T-071, pp. 36-37, 52), in his prior recorded testimony P-0622 did not mention [REDACTED] (P-0622: CAR-OTP-2029-0210), and in his *'procès-verbal d'audition*' given to the *Commission Mixte d'Enquête*, he did not mention [REDACTED] (P-0622's *procès-verbal d'audition*, CAR-OTP-2005-2526, at 2530). The Chamber notes that P-0481 does not mention [REDACTED]: P-0481: T-072, pp. 21-22; P-0481: T-073, pp. 36-37.
[222] P-0622's *procès-verbal d'audition*, CAR-OTP-2005-2526, at 2530.
[223] P-0622: CAR-OTP-2029-0210, at 0217-0218, paras 43, 57.
[224] P-0481: T-072, p. 23. P-0481 stated that he believed that P-0622 [REDACTED]: P-0481: T-072, p. 21. On this point, during his oral testimony, the Defence put to P-0622 the fact that his telephone showed a number of exchanges with [REDACTED] between [REDACTED] and [REDACTED] (*see* P-0622's call data records, CAR-OTP-00000510, CAR-OTP-00000685). However, P-0622 explained that his phones had been taken from him when he was arrested and he never had any exchanges with [REDACTED]. *See* P-0622: T-071, pp. 37, 39; P-0622's *procès-verbal d'audition*, CAR-OTP-2005-2526, at 2530. P-0622 stated that his [REDACTED]: P-0622: T-071, p. 36. P-0622 denied P-0481's allegations in his '*procès-verbal d'audition*' given to the *Commission Mixte d'Enquête*: P-0622's *procès-verbal d'audition*, CAR-OTP-2005-2526, at 2529-2530; P-0622: T-071, pp. 32-33.
[225] P-0622: T-071, pp. 54-55.

[REDACTED].[226] P-0622 initially stated in his *'procès-verbal d'audition*' given to the *Commission Mixte d'Enquête* that he was taken to the OCRB and a [REDACTED] transferred to [REDACTED].[227] In his prior recorded testimony, P-0622 testified that he was detained at the OCRB for [REDACTED] before being transferred to [REDACTED].[228] He also provided a detailed account of his detention and mistreatment at the OCRB over the course of [REDACTED], describing being locked in a cell for [REDACTED] in torturous conditions and thereafter being tortured over [REDACTED].[229] However, in court P-0622 stated that he was detained at the OCRB for [REDACTED] before being transferred to [REDACTED].[230]

124. The Chamber takes into account the traumatic nature of the events P-0622 described, the fact that his accounts were given for different purposes, in different contexts, at different points in time over the course of several years, and the lapse of time which may impact on his ability to recall details consistently and coherently. Nonetheless, the Chamber is of the view that the significant discrepancies in the evidence provided by the witness fundamentally undermine the credibility and reliability of his account.

125. On the basis of the foregoing, the Chamber considers that the nature and extent of the issues identified in P-0622's testimony fundamentally undermine his credibility. The Chamber does not rely on P-0622's testimony for the purposes of the present judgment, except to the extent that it corroborates P-0481's evidence regarding the circumstances of his (P-0481's) detention.

i) P-0787

126. Jean-Claude Sophil, P-0787, is a police official who occupied various roles at the OCRB and testified, pursuant to rule 68(3) of the Rules, about, *inter alia*, the functioning of the

[226] *See* P-0481's *procès-verbal d'audition*, CAR-OTP-2005-2526, at 2532; P-0481: T-072, p. 23; P-0481: T-073, p. 56. *See also* P-0481: T-073, p. 37.
[227] P-0622's *procès-verbal d'audition*, CAR-OTP-2005-2526, at 2530.
[228] In his prior recorded testimony, P-0622 stated that he was detained at the OCRB from [REDACTED] to [REDACTED] 2013, and then taken to [REDACTED]: P-0622: CAR-OTP-2029-0210, at 0218, 0221-0222, paras 52, 94-97.
[229] Specifically, P-0622 stated that they were locked in a cell for the [REDACTED] and not provided with food or water, that they had to drink their own urine so as to not die of thirst, some of his fellow detainees died in the cell and that they were tortured on several occasions. P-0622 also stated that he was not tortured at [REDACTED], where he was subsequently transferred. *See* P-0622: CAR-OTP-2029-0210, at 0218-0221, 0226, paras 57, 59-72, 78-85, 89, 145.
[230] P-0622: T-071, p. 37. P-0622 reiterated the same in response to a question posed by the Chamber: P-0622: T-071, pp. 52-53.

OCRB during the period relevant to the charges and the detention of P-1429 (Incident I).

127. Given the position of the witness during the period relevant to the charges, the Chamber assessed whether Jean-Claude Sophil may have had any potential motives and biases in testifying and may have had any involvement in the events under consideration (which was also assessed in light of the evidence as a whole). The Chamber observed that Jean-Claude Sophil was a forthcoming witness, who exhibited no apparent motives or incentives to implicate Mr Said, despite the strained relations between the police and the Seleka at the time. Jean-Claude Sophil stated when he did not know something and provided further clarifications when asked. He was a forthcoming witness but did not always specify the basis of his knowledge and it was not always clear how he obtained certain information that he provided.

128. The Defence argues that it has not been established that Jean-Claude Sophil was physically present at the OCRB during the period relevant to the charges.[231] The Defence submits that no witness recalls Jean-Claude Sophil being present at the OCRB,[232] and that documentary evidence demonstrates that he was stationed elsewhere.[233]

129. The Chamber notes that, in his prior recorded testimony, Jean-Claude Sophil stated that he was appointed to the OCRB as the Chief of Enquiries and Investigations immediately after 21 April 2013 and remained there, becoming the OCRB's director after the Seleka left the OCRB.[234] However, during witness preparation, when he was shown a presidential order indicating his appointment to the OCRB on 8 July 2013, Jean-Claude Sophil corrected his earlier statement and indicated that he was assigned as the Chief of Enquiries and Investigations in July 2013 and stayed in that role for almost a year.[235]

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[231] Defence Closing Brief, ICC-01/14-01/21-1039-Red, paras 383-384.
[232] The Defence also argues that neither [REDACTED] nor [REDACTED], Seleka insider witnesses stationed at the OCRB, could recall Jean-Claude Sophil: Defence Closing Brief, ICC-01/14-01/21-1039-Red, [REDACTED], Defence Closing Brief, ICC-01/14-01/21-1039-Conf, [REDACTED], referring to [REDACTED]. However, the Chamber notes that [REDACTED] initially said that he didn't know the names of police officers who were at the OCRB who continued their careers with the police: [REDACTED]. [REDACTED] in fact recalled hearing Jean-Claude Sophil's name when he was there, but could not remember the name of the person he described as the police commander in charge of the OCRB, or any of the police officers stationed there: [REDACTED]. Given this apparent lack of knowledge, the Chamber is not persuaded that the evidence of [REDACTED] and [REDACTED] is relevant to assessing the question of whether Jean-Claude Sophil was at the OCRB.
[233] Defence Closing Brief, ICC-01/14-01/21-1039-Red, paras 383-384, referring to presidential orders, CAR-OTP-2004-0814, at 0823, 0825, 0827, 0842.
[234] P-0787: CAR-OTP-2036-0410, at 0412, 0418, paras 11, 39.
[235] Addendum to P-0787's prior recorded testimony, CAR-OTP-00000594, at 000007-000008, referring to CAR-OTP-2004-0814, at 0842. The Chamber also notes that presidential order 13.216 dated 4 July 2013, CAR-OTP-

Jean-Claude Sophil repeated this during his testimony in court and added that he stayed in the judicial police department until July 2013 when he was seconded as head of service in the inquiries and investigation department at the OCRB.[236]

130. The Chamber notes that Benjamin Mallo testified that Jean-Claude Sophil did not return to the OCRB after the Seleka arrived in Bangui.[237] The Chamber has also considered [REDACTED]'s testimony on this aspect, which was less clear. [REDACTED] recalled that Jean-Claude Sophil replaced Mallo as the director of the OCRB after the Seleka left,[238] but also stated during the witness preparation session (when commenting on a photo dated 30 August 2013 depicting Jean-Claude Sophil with other police officials and Seleka members at the OCRB) that Jean-Claude Sophil was seconded to the OCRB, without specifying a timeframe.[239] The Defence put the evidence of Benjamin Mallo and [REDACTED] to Jean-Claude Sophil, and Jean-Claude Sophil maintained that he arrived at the OCRB in July 2013 and exhibited genuine confusion about the position he would have occupied at the time, if he was not at the OCRB.[240]

131. Given the contradictions in this evidence and Jean-Claude Sophil's own lack of clarity about when he was at the OCRB, the Chamber cannot determine that he was officially stationed at the OCRB during the time that the Seleka were there, between April and August 2013. Nevertheless, the Chamber is satisfied that Jean-Claude Sophil was truthful and that any internal inconsistencies in his evidence are attributable to confusion regarding dates and the roles that he occupied more generally at the OCRB.[241] The

2004-0814, at 0823, 0825, 0827, states that Jean-Claude Sophil was named Chief of Section for Coordination and External Relations and Head of Section for the Economic and Financial Affairs Unit at the Judicial Police Services Directorate. Jean-Claude Sophil clarified that this double entry was a mistake and he was the Head of Section at the Economic and Financial Affairs Unit: P-0787: T-037, p. 61. In a further presidential order dated 8 July 2013, Jean-Claude Sophil is listed as the Chief of Enquiries and Investigations: presidential order, CAR-OTP-2004-0814, at 0838, 0842, which he confirmed was correct: P-0787: T-037, pp. 67-68.

[236] P-0787: T-037, pp. 13, 55; P-0787: T-038, pp. 21-24, 33-35.

[237] P-0338: T-019, pp. 4, 78.

[238] [REDACTED].

[239] [REDACTED].

[240] P-0787: T-038, pp. 33-35. The Chamber notes that in answering this question, Jean-Claude Sophil queried where he was if he was not at the OCRB and regarding the awareness of the other witnesses as to his whereabouts, indicated that the Defence should have asked the other witnesses where he was if he was not at the OCRB, and referred back to the order appointing him to the OCRB in July 2013.

[241] The Chamber notes that the dates in Jean-Claude Sophil's prior recorded testimony are largely inaccurate if his date of arrival at the OCRB is July 2013, as stated in court. *See, for example*, P-0787: CAR-OTP-2036-0410, at 0412, 0422-0423, 0426-0427, 0433, paras 11, 55, 61, 78, 106. Furthermore, during his oral testimony, Jean-Claude Sophil expressed confusion regarding dates on several occasions. *See, for example*, P-0787: T-038, pp. 11-12, 21-24, 46, 50-51. Jean-Claude Sophil testified that 'the administration wasn't really working as a proper administration. So as far as we were concerned, it did appear in the official journal. And for the actual departments,

Chamber considers that inconsistencies vis-à-vis other witnesses regarding whether or not he was officially stationed at the OCRB can largely be attributed to the difficult circumstances of the police at the time. The Chamber notes in this respect that the evidence of the Benjamin Mallo and [REDACTED] was not entirely consistent regarding which police officials returned to the OCRB during the time the Seleka were based there.[242] To some extent, the Chamber considers the lack of clarity regarding whether Jean-Claude Sophil was stationed at the OCRB during the relevant period to be explicable on the basis that he was stationed there in 2012 prior to the arrival of the Seleka,[243] and again after the Seleka had left.[244]

132. Regardless of whether Jean-Claude Sophil was officially stationed at the OCRB at the relevant time, it is clear from the evidence that he had returned to work as a police official at the time that the Seleka were stationed there,[245] and was present at the OCRB on occasion during this time.[246] In this regard, the Chamber notes that Jean-Claude Sophil demonstrated a high degree of knowledge regarding the OCRB and its functioning while the Seleka were based there, which was largely consistent with information provided by other witnesses. Therefore, while the Chamber treats Jean-Claude Sophil's testimony regarding his own appointments and that of other personnel with caution, it does not consider this to undermine the credibility of his account regarding events at the OCRB generally.

133. On the basis of the foregoing, although the Chamber finds Jean-Claude Sophil to be credible, it has assessed the reliability of his evidence on a case-by-case basis in light of other evidence before it taking into account the lack of clarity in the evidence regarding

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it was a succession that took place but -- so it's difficult for us to say who was doing what in which timeframe': P-0787: T-038, p. 13.

[242] *See* below para. [REDACTED].

[243] P-0338 stated that, in 2012, Commissioner Sophil was the head of the criminal investigation service: P-0338: T-018, pp. 66.

[244] P-0338: T-019, p. 78; [REDACTED].

[245] Presidential order, CAR-OTP-2004-0814, at 0823, 0825, 0827, 0838, 0842, showing that he was appointed as '*Chef de service de Coordination et des Relations Extérieures*' as part of the security and public order department and as '*Chef de Service des Affaires Economiques et Financières*' as part of the judicial police department on 4 July 2013 (Jean-Claude Sophil clarified that this was an error and he was only at the economic and financial affairs unit and not in the coordination and external relations unit: P-0787: T-037, pp. 60-69) and then as Chief of Enquiries and Investigations at the OCRB on 8 July 2013.

[246] [REDACTED] identified Jean-Claude Sophil together with other police officials who were stationed in the OCRB in a photograph taken on 30 August 2013, when the Seleka were leaving the OCRB: addendum to P-2478's prior recorded testimony, [REDACTED], CAR-OTP-2069-3245; P-1429 stated that Jean-Claude Sophil 'often [REDACTED]' during his detention under the Seleka at the OCRB: P-1429: CAR-OTP-2049-0166, at 0177, para. 70.

when he was based at the OCRB and the basis of his knowledge in relation to certain issues discussed in his testimony.

j) P-0884

134. P-0884, a former member of the Anti-Balaka, testified pursuant to rule 68(3) of the Rules and his prior recorded testimony, comprising transcripts of investigator interviews and of his oral testimony given in the *Yekatom and Ngaïssona* case, was introduced into evidence.[247] P-0884 primarily gave evidence about the general contextual information relevant to the situation in Bangui following the Seleka takeover and their subsequent treatment of the civilian population, as well as information relevant to the formation and organisation of the Anti-Balaka in 2013.

135. P-0884 testified that he was [REDACTED],[248] and that by 2013 he was [REDACTED].[249] According to P-0884, he fled Bangui two to three months after the Seleka arrived and went to Yaoundé, where he stayed for three weeks to one month before returning to Bangui around July or August 2013, [REDACTED].[250] [REDACTED].[251]

136. The Chamber observes that P-0884 was evasive when questioned on certain issues, including when it came to events that tended to implicate him, particularly in relation to the early organisation of the Anti-Balaka. In the view of the Chamber, P-0884 denied knowledge of issues that a person [REDACTED] would be likely to have known, given his involvement with the Anti-Balaka. He frequently emphasised his role in peace and reconciliation efforts and in saving Muslims,[252] and indicated that he did not wish to provide information regarding [REDACTED] the Anti-Balaka because it would cause problems for himself.[253] When questioned about his knowledge of and involvement with the Anti-Balaka [REDACTED], P-0884 insisted that he was in hiding during this time,

[247] [REDACTED].
[248] CAR-OTP-2072-1356, at 1359; P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-054-CONF-ENG, p. 12; P-0884: T-076, p. 54; P-0884: T-077, p. 4.
[249] P-0884: T-077, pp. 4-5.
[250] P-0884: CAR-OTP-2072-1356, at 1376-1395; P-0884: CAR-OTP-2072-1654, at 1664; P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-055-CONF-ENG, p. 10; P-0884: T-077, pp.7-8.
[251] P-0884: CAR-OTP-2072-1541, at 1557-1559; P-0884: CAR-OTP-2072-1582, at 1610-1611; P-0884: CAR-OTP-2072-1397, at 1415-1416; P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-054-CONF-ENG, pp. 15-16; P-0884: T-076, p. 50-51.
[252] P-0884: T-076, pp. 50-51; P-0884: T-077, pp. 9-10, 54-56.
[253] P-0884: CAR-OTP-2072-1715, at 1732-1737.

had played no role in organising the 5 December attack and [REDACTED] simply because he was well-educated and could express himself articulately.[254] The Chamber finds this aspect of his testimony to be implausible. It notes that on matters in which P-0884 himself was not implicated, he was able to provide detailed information about how the Anti-Balaka organised itself, particularly after December 2013.

137. On the basis of the foregoing, the Chamber treats P-0884's testimony with caution and has assessed the reliability of his evidence on a case-by-case basis in light of other evidence before it. The Chamber has relied on P-0884's testimony alone only when it relates to background information in relation to which it is satisfied that there would be no incentive for the witness to lie.

k) P-1004

138. P-1004 was a [REDACTED] Seleka [REDACTED] of the [REDACTED] ethnicity,[255] who was [REDACTED] during the period relevant to the charges and his statement was introduced pursuant to rule 68(2)(c) of the Rules as he had passed away in 2017.[256] P-1004 provided evidence regarding, *inter alia*, the Seleka at Sibut prior to the takeover of Bangui and his postings to [REDACTED].

139. In line with its approach to statements introduced pursuant to rule 68(2)(c) of the Rules,[257] the Chamber takes into consideration that the parties had no opportunity to examine P-1004 and that his written statement was not accompanied by the formal declaration as to the truth of its contents set out under rule 68(2)(b)(ii) and (iii) of the Rules.

140. In assessing P-1004's evidence, the Chamber has taken into account the fact that P-1004 worked with [REDACTED].[258] The Chamber notes that P-1004 was well-informed and he provided information which was consistent with Seleka insiders who were present at

[254] P-0884: CAR-OTP-2072-1616, at 1624-1626; P-0884: CAR-OTP-2072-1654, at 1666-1668; P-0884: CAR-OTP-2072-1397, at 1427-1428; P-0884: T-076, p. 50; P-0884: T-077, pp. 8-9, 44; P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-054-CONF-ENG, pp. 14-15. [REDACTED].
[255] P-1004: CAR-OTP-2043-0536, at 0545-0546, paras 68, 70.
[256] First Prosecution 68(2)(c) Decision, ICC-01/14-01/21-506-Red, paras 41-47. *See also* Prosecution Rule 68(2)(c) Request, ICC-01/14-01/21-290-Red, para. 14.
[257] *See* above para. 68.
[258] P-1004: CAR-OTP-2043-0536, at 0540, para. 32.

the OCRB during the period relevant to the charges.[259] In particular, the Chamber observes that P-1004's evidence regarding Mr Said is consistent and corroborated by a number of other witnesses who testified orally before the Chamber.[260] Furthermore, the Chamber notes that P-1004's evidence regarding the Seleka's activities in Sibut and the advance on Bangui is consistent with the evidence of P-2105 and P-1167, who testified orally on these matters.[261]

141. On the basis of the foregoing, the Chamber concludes that P-1004 was a credible and generally reliable witness.

l) [REDACTED]

142. [REDACTED], a [REDACTED] Seleka member who was recruited [REDACTED][262] and was stationed at the OCRB during the period relevant to the charges, testified fully *viva voce*, primarily about the Seleka's advance on Bangui and the functioning of the Seleka base at the OCRB [REDACTED], until the Seleka were made to leave the premises.

143. At the outset, in assessing [REDACTED]'s evidence, the Chamber took into account the fact that he was a relatively low-ranking insider OCRB Seleka witness, who, according to him, was [REDACTED] after the Seleka arrived in Bangui, during which time he visited the OCRB on an almost daily basis.[263] He testified that he was stationed at the OCRB for about [REDACTED] before the Seleka left the OCRB.[264] The Chamber also notes that [REDACTED] was independently confirmed by other witnesses as being present at the OCRB.[265]

144. In the view of the Chamber, the witness exhibited no apparent motives or incentives to implicate Mr Said. The Chamber considers that [REDACTED] provided information that was in line with the type and level of knowledge that could be expected from a member of the Seleka in his position at the OCRB. [REDACTED] gave information about, *inter*

[259] *See* below paras [REDACTED].
[260] *See* below paras [REDACTED].
[261] *See* below paras 411, 425.
[262] [REDACTED].
[263] This notwithstanding, the Chamber notes that [REDACTED] was issued with an OCRB identification badge on [REDACTED] ([REDACTED]) and went to the OCRB on an almost daily basis before being posted there on a full time basis [REDACTED] before the Seleka left the OCRB. *See* [REDACTED].
[264] [REDACTED].
[265] [REDACTED].

alia, the functioning of the OCRB,[266] and the identities of members of the OCRB Seleka,[267] which is clear and consistent with other evidence on the record and with the evidence of other similarly situated OCRB witnesses.

145. The Chamber notes that the date of birth given by [REDACTED] in court and the date appearing on his official identity documents is different and that the witness explained that he had changed his date of birth on his birth certificate in order to be eligible for a job open to individuals between the ages of [REDACTED].[268] The witness was forthcoming in respect of his explanations of how and why he changed his date of birth on his official identity documents and the Chamber does not consider this issue to affect his overall credibility.

146. On the basis of the foregoing, the Chamber concludes that [REDACTED] was a credible and generally reliable witness.

m) P-1339

147. P-1339, a member of Alfred Yekatom's Anti-Balaka group, testified fully *viva voce*.[269] P-1339 gave evidence primarily about [REDACTED] Zongo after the Seleka arrived in Bangui, joining Alfred Yekatom's group [REDACTED], moving along with the group in the bush, and participating in the attack on Bangui on 5 December 2013.

148. As regards [REDACTED], P-1339 testified that he stayed in Bangui for approximately two months after the Seleka arrived [REDACTED]; at the same time, he testified that he no longer remembered exactly how much time he spent in Bangui or the date of his departure [REDACTED], only that it was in 2013.[270] When subsequently asked in court, on the basis of his prior recorded testimony, whether it was in August 2013 that he had heard about people gathering in the bush, P-1339 testified that it was difficult for him to remember the dates.[271] Although the Chamber is satisfied, based on P-1339's account of the individuals present [REDACTED], the Chamber could not ascertain [REDACTED]

[266] [REDACTED].
[267] [REDACTED].
[268] [REDACTED].
[269] The Prosecution originally sought to introduce P-1339's prior recorded testimony and associated material into evidence under rule 68(3) of the Rules and the Chamber rejected this request: Prosecution Eighth Rule 68(3) Request, ICC-01/14-01/21-582-Red, paras 23-26.
[270] P-1339 stated that in 2013 he was living in Bangui [REDACTED]; he recalled having written the relevant dates in his notebook but he did not have that notebook with him: P-1339: T-133, pp. 7-8; P-1339: T-131, pp. 16-17.
[271] P-1339: T-133, pp. 13-14.

given the inconclusive nature of his testimony regarding his departure from Bangui.

149. P-1339 similarly testified that he could not tell precisely how long they spent in Kalangoi and Gbangba, after having spent time in Zongo.[272] Furthermore, P-1339 was unable to locate the places where Alfred Yekatom's group was present prior to 5 December 2013 accurately on a map.[273] P-1339's testimony was also unclear about the timeframe of purchase of weapons by Alfred Yekatom's group. In this regard, while P-1339 confirmed that the purchase of weapons took place prior to 5 December 2013, he testified that he could no longer remember the exact date.[274]

150. The Chamber had regard to P-1339's evidence concerning the role he played in Alfred Yekatom's group[275] and [REDACTED] in the Anti-Balaka after he returned to Bangui.[276] The Chamber considers that P-1339 was not forthcoming, particularly regarding the activities of Alfred Yekatom's group in the bush and preparations in Zongo.[277]

151. The Chamber notes that the inconsistencies and lack of precision in P-1339's account related to issues of particular significance to the case, namely, the timeframe of the gathering and organisation of Anti-Balaka groups, the movement of Alfred Yekatom's group in the bush and the extent of arming and training prior to the 5 December 2013 attack on Bangui. The witness's inability or unwillingness to provide precise information regarding these matters impacted the probative value of his evidence and the Chamber's view of its reliability.

152. On the basis of the foregoing, the Chamber treats P-1339's testimony with caution and has assessed the reliability of his evidence on a case-by-case basis in light of other evidence before it.

n) P-1563

[272] P-1339: T-131, pp. 29, 34-35.
[273] P-1339: T-131, pp. 29, 33, 48; P-1339: T-133, pp. 17, 20; annotated map, CAR-REG-0002-0156. P-1339 testified that he was unable to read a map [REDACTED] (map, CAR-D33-0014-1578), nor able to locate [REDACTED] on the map: P-1339: T-133, pp. 11, 16-17, referring to map, CAR-D33-0014-1577.
[274] P-1339: T-133, p. 24.
[275] P-1339: T-131, pp. 29-30, 34.
[276] P-1339: T-132, pp. 6-7.
[277] P-1339: T-131, pp. 23-24 (testified that [REDACTED] soldiers discussed amongst themselves [REDACTED]); P-1339: T-133, p. 29 (testified that he did not know with whom Alfred Yekatom spoke on the satellite phone); P-1339: T-133, pp. 44-45 (testified that he [REDACTED] not privy to discussions between the leaders and a journalist).

153. P-1563 was a [REDACTED] in 2013 and testified fully *viva voce*. The Chamber found P-1563 to be an enthusiastic witness who endeavoured to answer questions from all parties to the best of his ability.[278] The Chamber notes that P-1563 was illiterate[279] and witnessed traumatic events during a time of great upheaval, which the Chamber considers had an impact on his narrative and made it confusing at points.

154. Specifically, the Chamber recalls that there were a number of issues during his testimony. First, the Chamber notes that P-1563 demonstrated some confusion during his testimony regarding the time frame when the Seleka were based at the Lycée Boganda, and generally had an issue with dates and presenting a coherent chronology of events.[280] Second, the Chamber observes that P-1563 had difficulty understanding aerial photographs which were shown to him.[281] Third, the Chamber notes that P-1563 named an individual called Moussa as being in charge of the Lycée Boganda.[282]

155. In respect of P-1563's issues regarding dates, the Chamber notes that P-1563 was open and clear with the Chamber that he did not have a good grasp on dates.[283] In respect of the difficulties faced by the witness understanding aerial photographs, the Chamber considers that this can largely be attributed to the witness's educational background.[284] Similarly, in respect of his evidence regarding who was in charge of Lycée Boganda, in light of P-1563's position, the Chamber considers that P-1563 did not have a good basis of knowledge regarding who was in charge of the Seleka and endeavoured to explain how he identified Moussa as being the leader.[285] Accordingly, the Chamber considers that these issues did not undermine P-1563's credibility. Nonetheless, lack of clarity of his account impacted the extent to which the Chamber could rely on relevant aspects of

[278] *See, for example*, P-1563: T-116, p. 38; P-1563: T-117, p. 34.
[279] *See* email from the VWU to the Chamber, dated 25 September 2024 at 14:20; vulnerability assessment for P-1563, 25 September 2024, p. 1. *See also* P-1563: T-116, p. 2; P-1563: T-117, pp. 5-6.
[280] *See* P-1563: T-116, pp. 10-11, 36; P-1563: T-117, pp. 17-23.
[281] *See* P-1563: T-117, pp. 3-8. *See also* P-1563: T-116, pp. 47-48.
[282] P-1563: T-116, p. 13; P-1563: T-117, pp. 23-25. The Chamber notes that multiple witnesses testified that Colonel Kondo was in charge of the base at the Lycée Boganda and the premises across the road on the Avenue de l'Independence. *See* below para. 670. However, the Chamber notes that in his prior recorded testimony, P-1563 stated that a Sudanese general known as Moussa was at the Lycée Boganda and when this was put to him in court, he stated that the Moussa he referred to was at Sapeurs-Pompiers and he did not have specific information about the Moussa at the Lycée Boganda. *See* P-1563: T-117, p. 25.
[283] P-1563: T-116, pp. 11-12; P-1563: T-117, p. 13.
[284] *See* P-1563: T-117, p. 6.
[285] *See* P-1563: T-117, p. 24-26. The Chamber also notes that the witness's confusion may be attributed to the fact that Colonel Kondo may have been Sudanese and part of Moussa Assimeh's group. *See* P-2042: CAR-OTP-2074-0002, at 0007, para. 25; P-1825: CAR-OTP-2079-0315, at 0322, para. 41.

his testimony.

156. On the basis of the foregoing, while the Chamber concludes that P-1563 was a credible witness, it approaches his testimony with caution and has assessed the reliability of his evidence on a case-by-case basis in light of other evidence before it.

o) [REDACTED]

157. [REDACTED], a former member of the Seleka who was stationed at the [REDACTED], testified fully *viva voce* primarily about his activities at the OCRB, the functioning of the Seleka base at the OCRB and Mr Said's role.[286]

158. At the outset, in assessing [REDACTED]'s credibility, the Chamber took into account the fact that he was an insider OCRB Seleka witness, who interacted with Mr Said directly during the events. The Chamber finds that there are no indications in [REDACTED]'s account that he diminished his own role, the role of the OCRB Seleka generally or that of Mr Said in the commission of crimes. While [REDACTED]'s evidence appeared to over-emphasise the purportedly lawful nature of the Seleka operations at the OCRB,[287] [REDACTED] also gave detailed accounts of the crimes at the OCRB.[288] Furthermore, in the view of the Chamber, the witness appeared well-informed and exhibited no apparent motives or incentives to implicate Mr Said.

159. The Chamber considers that [REDACTED] provided information that was in line with the type and level of knowledge that could be expected from a member of the Seleka in his position at the OCRB, including, for example, evidence related to the functioning, organisation and hierarchy of the OCRB Seleka.[289] In this regard, the Chamber notes that the information [REDACTED] provided is largely consistent with other evidence on the record and with that of other similarly situated OCRB witnesses, except for specific minor inconsistencies.[290]

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[286] [REDACTED]. [REDACTED] received an OCRB identification badge [REDACTED], and stated that the badge was issued a few days after he arrived at the OCRB or almost one week after his photo was taken for the badge at the OCRB. *See* [REDACTED]. It is unclear when he left the OCRB, [REDACTED]: *see* below para. 1108.
[287] [REDACTED].
[288] *See, for example*, below paras [REDACTED].
[289] [REDACTED].
[290] For example, [REDACTED]'s evidence about the presence and role of General Mazangue stands in contrast to other evidence received by the Chamber. [REDACTED]; [REDACTED].

160. The Chamber notes that while [REDACTED] exhibited some difficulty recalling precise dates and details,[291] he was forthcoming regarding the limits of his testimony,[292] and clearly distinguished between events that he observed directly and those he did not.[293] In some instances where [REDACTED] had difficulty recalling certain details, both the Prosecution and the Defence used his prior recorded testimony to refresh his memory.[294] When presented with such prior statements, [REDACTED] was able to recollect easily and often provided valuable context and clarifications, while openly acknowledging how the passage of time had impacted his ability to remember specific persons, situations or details.[295] In light of these circumstances, [REDACTED]'s inability to recall these specific details did not impact the credibility of his account generally.

161. On the basis of the foregoing, the Chamber concludes that [REDACTED] was a credible and generally reliable witness.

p) P-1967

162. P-1967 testified that he joined the Seleka after they arrived in Bangui,[296] was deployed [REDACTED][297] [REDACTED].[298] P-1967 testified pursuant to rule 68(3) of the Rules,[299] primarily about the Seleka presence [REDACTED] after 24 March 2013 and [REDACTED] Michel Djotodia's presidential inauguration on 18 August 2013 and the ceremony marking the Seleka leaving the OCRB on 30 August 2013.

163. At the outset, in assessing P-1967's evidence, the Chamber took into account the fact that

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[291] [REDACTED]. The Chamber notes that, at times, [REDACTED] clarified his testimony in subsequent questioning. These clarifications were not significant to the charges against the accused nor did they undermine [REDACTED]'s credibility. In this regard, the Chamber notes that [REDACTED] referred to his oath to tell the truth and considers that these clarifications or corrections demonstrated the witness's attempts to be as precise and accurate as possible. For example, one such occasion, [REDACTED] stopped himself mid-testimony and recalled that he had sworn to tell the truth, and either corrected or clarified what he was in the midst of stating. *See, for example*, [REDACTED].
[292] *See, for example*, [REDACTED] (regarding not being able to identify the weapons); [REDACTED] (regarding not knowing about the clashes between the military police and the Seleka).
[293] [REDACTED].
[294] *See, for example*, [REDACTED] pp. 23-24 (regarding the date that he arrived at the OCRB), 28 (regarding the number of Seleka stationed at the OCRB), 54-56 (regarding the registration of a prisoner); [REDACTED] (regarding the beating of prisoners at the OCRB). The Chamber also notes that [REDACTED] was unsure about the exact location of Mr Said's office within the OCRB main compound: [REDACTED], referring to annotated sketch, [REDACTED].
[295] [REDACTED].
[296] P-1967: CAR-OTP-2069-0498, at 0502-0503, paras 23-25.
[297] P-1967: CAR-OTP-2069-0498, at 0506, para. 39.
[298] *See* P-1967: CAR-OTP-2069-0498, at 0506, 0515-0517, paras 39, 77, 82-88.
[299] Second Prosecution Rule 68(2)(b) Decision, ICC-01/14-01/21-551-Red, paras 8-15; P-1967: T-093, T-094.

he was a relatively low-ranking insider Seleka witness, [REDACTED].[300] In the view of the Chamber, the witness appeared relatively well-informed about the events and hierarchy at [REDACTED] and exhibited no apparent motives or incentives to implicate particular Seleka members in the commission of crimes.

164. The Chamber notes that P-1967 provided little to no information concerning the OCRB or Nouradine Adam. P-1967 did not name Mr Said as having any role at the OCRB and instead stated that the person in charge of the OCRB was 'Noiro', the description of whom (as someone young and thin) did not match Mr Said at the time of the events.[301] Considering P-1967's basis of knowledge, the fact that he was primarily stationed at [REDACTED] and only visited the OCRB twice for a limited purpose,[302] and the contradictory evidence set out in the evidentiary analysis below regarding the respective roles of Noiro and Mr Said, the Chamber does not consider P-1967's evidence regarding who was in charge of the OCRB to be reliable. Nonetheless, the Chamber considers that P-1967 provided information that was in line with the type and level of knowledge that could be expected from a member of the Seleka [REDACTED] and considers that this did not impact his credibility or reliability generally.

165. The Chamber considers that, in all other respects, P-1967 demonstrated a strong ability to recall names and places. [REDACTED].[303] P-1967 also commented on a wide range and number of photographs, [REDACTED] and commenting on the identities of individuals who appear in them.[304]

166. The Chamber is also of the view that P-1967 was generally forthcoming when he did not recall certain details and provided information about the source of his knowledge.[305]

167. The Chamber notes that, on occasion, P-1967 expressed difficulty recalling the exact dates and timeframes of certain events.[306] [REDACTED].[307] [REDACTED].[308] In the

[300] P-1967: CAR-OTP-2069-0498, at 0506, 0508, paras 39, 47.
[301] P-1967: CAR-OTP-2069-0498, at 0513, para. 69.
[302] P-1967: CAR-OTP-2069-0498, at 0513, para. 69.
[303] P-1967: CAR-OTP-2069-0498, at 0517, 0542-0543, paras 88, 200-202; P-1967: T-094, pp. 21-26.
[304] *See* P-1967: T-094, pp. 28-51.
[305] *See, for example*, [REDACTED].
[306] P-1967: T-094, pp. 18-19 ([REDACTED]), 33-34, referring to photograph, CAR-OTP-2069-2338 (shown a photograph to refresh the witness's memory concerning an official mission in August 2013), 11 ([REDACTED]). S*ee also* P-1967: CAR-OTP-2069-0498, at 0500, para. 12).
[307] P-1967: CAR-OTP-2069-0498, at 0517, 0543, paras 88, 202. *See also* P-1967: T-094, pp. 25-26, referring to P-1967: CAR-OTP-2069-0498, at 0543.
[308] P-1967: CAR-OTP-2069-0498, at 0543, para. 202.

view of the Chamber, given these explanations, the lack of precision in P-1967's testimony about dates did not affect the reliability of his account [REDACTED].

168. On the basis of the foregoing, the Chamber concludes that P-1967 was a credible and generally reliable witness.

q) [REDACTED]

169. [REDACTED], a Seleka member who was stationed at the OCRB during the period of the charged crimes,[309] testified fully *viva voce*, primarily about the circumstances in which he joined the Seleka, his participation in the Seleka advance on Bangui, his role at the OCRB Central and the functioning of the Seleka base at the OCRB.

170. At the outset, in assessing [REDACTED]'s credibility, the Chamber took into account the fact that he was an insider OCRB Seleka witness, who interacted with, *inter alia*, Mr Said and Mahamat Sallet during the events. Specifically, the Chamber considers that there are no indications in [REDACTED]'s account that he diminished his own role, the role of the OCRB Seleka generally or that of Mr Said in the commission of crimes. Further, in the view of the Chamber, the witness appeared well-informed and exhibited no apparent motives or incentives to implicate Mr Said.

171. The Chamber considers that [REDACTED] provided information that was in line with the type and level of knowledge that could be expected from a member of the Seleka with his background and position. For example, [REDACTED] provided a detailed account of the Seleka's military advance to Bangui,[310] daily operations of the OCRB,[311] functioning and hierarchy of the OCRB Seleka, [REDACTED].[312] In this regard, the Chamber notes that the information [REDACTED] provided is largely consistent with other evidence on the record and with that of other similarly situated OCRB witnesses, and that [REDACTED] independently confirmed his presence and consistently described his role at the OCRB.[313]

172. The Chamber further notes that [REDACTED] was generally forthcoming regarding the

[309] [REDACTED]. *See also* below para. [REDACTED].
[310] *See, for example*, [REDACTED].
[311] *See, for example*, [REDACTED].
[312] *See, for example*, [REDACTED].
[313] *See, for example*, [REDACTED].

limits of his testimony,[314] and clearly distinguished between events that he observed directly and those he did not.[315] [REDACTED] openly acknowledged how his state of mind had impacted his ability to remember specific details and how he recollected information.[316] In light of these circumstances, [REDACTED]'s inability to recall some specific details and the resulting inconsistencies did not impact his credibility or the reliability of his account.

173. On the basis of the foregoing, the Chamber concludes that [REDACTED] was a credible and generally reliable witness.

r) [REDACTED]

174. [REDACTED] was a Seleka insider who was stationed at the OCRB from [REDACTED] until the Seleka departed the OCRB in August 2013 and testified fully *viva voce*.

175. [REDACTED] provided detailed information regarding the layout of the OCRB,[317] the role of Nouradine Adam in relation to the OCRB,[318] the Seleka elements stationed there and the hierarchy amongst them,[319] referring in the latter regard to a list of Seleka elements stationed at the OCRB that [REDACTED].[320] The Chamber notes that this evidence is consistent with other evidence that it considers to be credible and reliable.[321] The witness was able to provide additional information when questioned further on these points and appeared to be answering fluently based on his recollection. Another Seleka insider witness independently confirmed [REDACTED]'s presence at the OCRB.[322]

176. However, [REDACTED] was less forthcoming when describing the role of the Seleka at the OCRB, their cooperation with the police, the reasons for arrests by the Seleka and the conditions of detention at the OCRB. In this respect, the Chamber noted that his testimony differs markedly from credible and reliable evidence received from various

[314] [REDACTED] (he stated that he did not know the types of weapons supplied by Moussa Assimeh); [REDACTED] (he stated that he did not know how many Seleka members Moussa Assimeh had); [REDACTED] (he specified what he knew about Mr Said before meeting him and how he learnt of his name); [REDACTED] (he specified what he knew and what he did not know about the underground cell); [REDACTED] (he explained what he knew and did not know about Tahir).
[315] [REDACTED].
[316] [REDACTED].
[317] [REDACTED]; photograph, CAR-OTP-2033-6871.
[318] [REDACTED].
[319] [REDACTED].
[320] [REDACTED].
[321] *See* below paras 1114, 1140, 1174-1176.
[322] [REDACTED].

other sources. For example, [REDACTED] testified that there were 30 police officers present at the OCRB,[323] that those detained at the OCRB were well treated[324] and that there were strong procedural guarantees in place, all of which contradicts the evidence before the Chamber.[325] The Chamber considers that [REDACTED]'s testimony in this regard reflected a desire to minimise his own involvement in criminal operations.

177. This conclusion is consistent with the Chamber's observation of [REDACTED]'s demeanour during his testimony. Although he was a Prosecution witness, it was notable that he appeared to be tense, anxious and focused when questioned by the Prosecution, but visibly relaxed, even smiling and laughing, when Defence counsel began her questioning. While appearing knowledgeable and willing to provide detailed information on certain matters, [REDACTED] was unable to provide further details or explain how the Seleka's cooperation with the police functioned in practice,[326] and was vague and became incoherent when the mistreatment of detainees came up incidentally in his testimony.[327] In addition, his repetition of certain details (such as the involvement of the tribunal in determining the fate of prisoners and the Seleka's role in supporting the police's function in maintaining law and order)[328] demonstrated an eagerness to convey information that he may have believed would legitimise Seleka operations at the OCRB. Accordingly, the Chamber considers these aspects of his testimony to lack credibility and will not rely on them.

178. The Chamber also specifically considered [REDACTED]'s attitude to Mr Said, given that he could be considered [REDACTED]. The Chamber notes that [REDACTED]'s testimony regarding Mr Said's position as the head of the OCRB was consistent with other evidence that it finds to be credible and reliable.[329] However, when describing Mr Said's role and interaction with detainees, [REDACTED]'s account diverged from that of other witnesses.[330] He emphasised that Mr Said would contact the tribunal before

[323] [REDACTED].
[324] *See* [REDACTED].
[325] [REDACTED] emphasised the involvement of the tribunal in determining the fate of prisoners multiple times during his testimony and testified that Mr Said, after contacting the president of the court or the tribunal, or the director of the police, after obtaining further clarifications, would take the decision whether or not to release people from the OCRB. *See* [REDACTED].
[326] [REDACTED].
[327] [REDACTED].
[328] *See*, *for example*, [REDACTED].
[329] *See* below paras 1112-1118.
[330] *See* below paras 1122-1129.

determining whether or not to release people from the OCRB.[331] [REDACTED] also appeared to transfer blame in relation to abuses at the OCRB to other actors, testifying that [REDACTED] was 'the one who did everything, all the – he's the perpetrator of all the violence'[332] and that 'he wanted to stress that particular officer'.[333] There is little to no corroborating evidence from other witnesses regarding the involvement of [REDACTED] in events at the OCRB. Accordingly, the Chamber considers these aspects of his testimony to lack credibility and will not rely on them.

179. On the basis of the foregoing, the Chamber finds [REDACTED] to be a partly credible witness, approaches his evidence with caution and has assessed the reliability of his evidence on a case-by-case basis in light of other evidence before it.

s) P-2239

180. P-2239's prior recorded testimony was initially introduced pursuant to rule 68(2)(b) of the Rules.[334] However, in light of amendments during the rule 68(2)(b) certification process, where P-2239 mentioned Mr Said for the first time,[335] the Chamber instead allowed the introduction of P-2239's prior recorded testimony pursuant to rule 68(3) of the Rules.[336]

181. In his prior recorded testimony, P-2239 referred to a 'Seleka Colonel' who he stated was the 'commander in charge of the OCRB'.[337] As noted above, during the rule 68(2)(b) certification process, P-2239 stated that the name of this colonel was Mahamat Said, which P-2239 reiterated in his testimony in court.[338] The Chamber notes that P-2239 also provided an explanation in court as to how he knew that this Seleka colonel was Mr Said, explaining that he heard people calling him Colonel Said at the OCRB.[339] The Chamber also questioned P-2239 on why Mr Said was not mentioned in his prior recorded testimony, to which P-2239 responded that he had, in fact, mentioned him 'at the beginning of the interview, because he was the head of the OCRB' but 'maybe they forgot

[331] [REDACTED].
[332] [REDACTED].
[333] [REDACTED].
[334] [REDACTED].
[335] *See* addendum to P-2239's prior recorded testimony, CAR-OTP-00001495, at 000002 (not in evidence).
[336] [REDACTED].
[337] P-2239: CAR-OTP-2104-0918, at 0928, paras 45-46.
[338] P-2239: T-122, pp. 40-41.
[339] P-2239: T-122, p. 41.

that I had mentioned that name'.[340]

182. In line with its approach to the belated identification of Mr Said,[341] the Chamber has considered whether the information provided by P-2239 regarding the Seleka colonel is consistent with information on the record regarding Mr Said, as well as the explanation as to how he came to identify Mr Said. In this regard, although P-2239's description of the Seleka colonel is broadly speaking consistent with that of Mr Said,[342] the Prosecution investigators did not show him a photograph of Mr Said during his interview. The Chamber also considers his explanation regarding the late mentioning of Mr Said to be inadequate and vague. In these circumstances, the Chamber will not rely on P-2239's identification of Mr Said.

183. The above notwithstanding, the Chamber considers that this did not undermine P-2239's credibility, nor the reliability of the remainder of his account. The Chamber notes that P-2239 was responsive and measured during his testimony and provided necessary explanations and clarifications when requested.[343] The Chamber notes that P-2239 provided evidence in relation to his detention (Incident Q), which was consistent with and corroborated by other witnesses who directly observed his detention at the OCRB, namely P-2241 and P-2400.[344] Furthermore, the Chamber notes that P-2239's evidence regarding the operation of the OCRB during his detention is also consistent with that of other witnesses who were detained there.[345]

184. On the basis of the foregoing, the Chamber concludes that P-2239 was a credible and generally reliable witness.

t) P-2240

185. P-2240, [REDACTED],[346] gave evidence about the Seleka's arrival in Bangui in March 2013, the functioning of the Seleka after 24 March 2013, events in Boy Rabe in August 2013, as well as events relating to Incidents D, Q and R.

[340] P-2239: T-123, p. 31.
[341] *See* above para. 59.
[342] *See* above paras 5-6.
[343] *See*, *for example*, P-2239: T-122, pp. 42-43; P-2239: T-123, pp. 5-6, 30-31.
[344] *See* below paras 1495-1564.
[345] *See* generally below paras 1078-1105.
[346] P-2240: CAR-OTP-2107-8860, at 8863, 8865, paras 11-12, 22.

186. As set out below, the Chamber considers that P-2240's evidence was affected by a number of issues, which when assessed cumulatively, threw into question the credibility of his entire account.

187. P-2240 testified that he had a close relationship with [REDACTED], claiming to have known him since childhood and referring to him as a cousin,[347] indicating a certain level of familiarity with him. Yet, P-2240 stated that [REDACTED],[348] which contrasts with the evidence received from other credible witnesses that [REDACTED].[349]

188. As regards the OCRB, P-2240 stated that he worked at [REDACTED][350] and would accompany [REDACTED] for daily visits to the OCRB.[351] P-2240 stated he did not know how the OCRB functioned and who the high-ranking officers were,[352] but recalled, without specifying the source of his knowledge, that Nouradine Adam had appointed Mr Said and Rakiss to manage the OCRB and that Mr Said was in charge of detentions at the OCRB and would report to Nouradine Adam in Arabic or French.[353]

189. P-2240 was unable to identify Mr Said in photographs shown to him, [REDACTED].[354] P-2240 was also unable to identify Rakiss, [REDACTED].[355] Similarly, P-2240 did not recognise [REDACTED],[356] despite testifying that he worked with him [REDACTED] during the relevant time.[357] The Chamber is not persuaded that P-2240's inability to identify Seleka members (when shown one of Mr Said's photograph close-up) is

[347] P-2240: CAR-OTP-2107-8860, at 8864, para. 16.
[348] Addendum to P-2240's prior recorded testimony, CAR-OTP-00000455, at 000004. P-2240 also stated that Michel Djotodia was of Rounga ethnicity. As regards [REDACTED] ethnicity, *see* below para. 769.
[349] *See* P-0291: CAR-OTP-2034-0104, at 0113, para. 51; P-0349: CAR-OTP-2075-0812, at 0820, para. 43; P-1167: T-035, p. 18; P-0100: CAR-OTP-2027-2535, at 2550, para. 87.
[350] P-2240: CAR-OTP-2107-8860, at 8865, para. 22.
[351] P-2240: CAR-OTP-2107-8860, at 8867, para. 29; addendum to P-2240's prior recorded testimony, CAR-OTP-00000455, at 000002.
[352] P-2240: T-032, p. 62.
[353] P-2240: CAR-OTP-2107-8860, at 8867, para. 31; addendum to P-2240's prior recorded testimony, CAR-OTP-00000455, at 000002.
[354] Addendum to P-2240's prior recorded testimony, CAR-OTP-00000455, at 000004, referring to photograph showing a close-up of Mr Said's face, CAR-OTP-2081-0067 (P-2240 recognised no one), photograph showing Michel Djotodia, Mr Said and Tahir, among others, CAR-OTP-2094-1928 (P-2240 recognised no one), and photograph showing Mr Said and Michel Djotodia among others, CAR-OTP-2069-3226 (P-2240 only recognised the person to the very left and did not recognise Mr Said or Michel Djotodia). *See also* above para. 6. *See also* addendum to P-2240's prior recorded testimony, CAR-OTP-00000455, at 000002, referring to CAR-OTP-2107-8860, at 8869, para. 35.
[355] Addendum to P-2240's prior recorded testimony, CAR-OTP-00000455, at 000004.
[356] Addendum to P-2240's prior recorded testimony, CAR-OTP-00000455, at 000004, referring to photograph, CAR-OTP-2069-2506. *See also* P-1967: CAR-OTP-2069-0498, at 0576.
[357] P-2240: T-032, pp. 13-14, 26 (also claiming that [REDACTED] when the witness worked there and not knowing [REDACTED]'s rank).

explained by his assertion that Seleka members often wore *kadamouls* in order not to be recognised.[358] There is no indication in the evidence from credible witnesses that Mr Said habitually wore a *kadamoul* on his head.

190. While P-2240 identified the OCRB entrance gate and the main building in photographs,[359] he was unable to describe the layout with any accuracy, as could be expected from someone who was a regular visitor as he claimed. For instance, P-2240 stated that the OCRB had two cells, with the 'first cell' in the veranda and the 'second cell' to the right called 'the *maison blanche*'.[360] P-2240 added that 'there is a basement' in the *maison blanche* where they 'would put prisoners' too, which the Chamber understands to be a reference to the main OCRB building where the underground cell was located.[361] As discussed, the Chamber found that the OCRB was composed of two sets of detention cells as well as the main building, where the underground cell was located.[362]

191. The Chamber further notes that P-2240 [REDACTED] Incident Q and stated that [REDACTED].[363] P-2240 gave evidence about events underlying this incident that is internally inconsistent and contradicts the evidence of other credible witnesses. For example, P-2240 stated in his prior recorded testimony that [REDACTED] Seleka members brought the four persons to the OCRB for registration and [REDACTED] register them and put them in a cell.[364] In contrast, in court, P-2240 testified that [REDACTED] P-2241 was accompanied by another person during her detention.[365] P-2240 also stated that he [REDACTED][366] (which is not reflected in [REDACTED]) and that P-2239 was detained for [REDACTED] days and P-2241 was detained for [REDACTED] hours.[367] This is entirely at odds with their respective accounts, indicating

[358] Addendum to P-2240's prior recorded testimony, CAR-OTP-00000455, at 000004, referring to photograph, CAR-OTP-2081-0067.
[359] Addendum to P-2240's prior recorded testimony, CAR-OTP-00000455, at 000004, referring to photographs, CAR-OTP-2033-7718 (showing the metal gate with 'OCRB' written in red letters), CAR-OTP-2033-6811 (showing the OCRB courtyard with the OCRB main building and a limited view of the two cellblocks and trees).
[360] P-2240: T-031, p. 63.
[361] P-2240: T-031, p. 63.
[362] *See* below paras 909-910, 1077.
[363] [REDACTED]: P-2240: CAR-OTP-2107-8860, at 8868-8869, paras 34, 37; addendum to P-2241's prior recorded testimony, CAR-OTP-00000455, at 000002; P-2240: T-032, pp. 64-65.
[364] P-2240: CAR-OTP-2107-8860, at 8868, para. 30.
[365] P-2240: T-032, p. 67.
[366] P-2240: T-032, p. 68.
[367] Addendum to P-2240's prior recorded testimony, CAR-OTP-00000455, at 000002.

that they were detained for approximately [REDACTED] days.[368]

192. P-2240 testified that, according to what he had heard from [REDACTED], the Seleka brought P-2241 to Camp de Roux because she '[REDACTED] Seleka colonel' around June 2013 and this colonel had accused her [REDACTED].[369] From the accounts provided by P-2241, P-2400 and P-2337, P-2241 was detained on suspicion of being the wife of P-2400, who in turn was suspected of being in the military.[370]

193. On the basis of the foregoing, the above-mentioned inconsistencies in P-2240's evidence, when assessed holistically, rendered his evidence unreliable. Accordingly, the Chamber does not rely on it for the purposes of the present judgment.

u) P-2269

194. P-2269, [REDACTED] who joined the Anti-Balaka, primarily gave evidence about the gathering and preparations in Gobere as well as the formation of the Anti-Balaka. P-2269's statement to the Prosecution investigators was introduced into evidence pursuant to rule 68(2)(c) of the Rules as the witness could not be found despite the exercise of reasonable diligence by the Prosecution.[371]

195. P-2269 stated that he was formerly one of [REDACTED],[372] and [REDACTED].[373] He stated that, when the Seleka arrived, he was in Bangui [REDACTED] and fled to Zongo, where he remained for two months.[374] According to P-2269, he then 'went to Bossangoa to prepare the rebellion' and met with individuals who would become chiefs of groups in Gobere; he described the gathering and organisation in Gobere, where he said he remained for three months.[375] The Chamber notes that the information P-2269 provides regarding the conditions in Zongo, the organisation of the group in Gobere and the Anti-Balaka's advance on Bangui is largely consistent with the evidence received from other witnesses with knowledge of these events.[376]

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[368] *See* below paras 1035-1037, 1067.
[369] Addendum to P-2240's prior recorded testimony, CAR-OTP-00000455, at 000002; P-2240: T-032, pp. 64-65.
[370] *See* below paras 1505-1506.
[371] Second Prosecution Rule 68(2)(c) Decision, ICC-01/14-01/21-637-Conf, paras 18-32, referring to Annex A to Prosecution Second Rule 68(2)(c) Request, ICC-01/14-01/21-628-Conf-AnxA.
[372] P-2269: CAR-OTP-2111-0336, at 0338, para. 14.
[373] P-2269: CAR-OTP-2111-0336, at 0338-0339, para. 18.
[374] P-2269: CAR-OTP-2111-0336, at 0339, para. 23.
[375] P-2269: CAR-OTP-2111-0336, at 0341, 0351, paras 35-36, 112.
[376] *See* below paras 444, 449-451, 457 *et seq*.

196. However, the Chamber observes that P-2269's statement relevant to the initial organisation of the Anti-Balaka in Gobere is affected by a number of issues. First, the Chamber notes that P-2269 describes his role in relation to the gathering of people in Gobere in a manner that suggests that he was [REDACTED] in the early organisation of the Anti-Balaka,[377] yet there is no evidence from other witnesses with knowledge of these events that support his account of when and how he left to Gobere, as well as his exchanges and relationship with Maxime Mokom.[378] Second, although P-2269 described returning to CAR and participating in the early organisation of the group in Gobere in late May/early June 2013, he provided the Prosecution investigators with a refugee card issued [REDACTED], in the DRC, on [REDACTED] July 2013 at a time when the evidence shows that the gathering at Gobere was already underway.[379] The Chamber notes that it was not possible to clarify through questioning how P-2269 acquired a document attesting to his status as a refugee issued [REDACTED] on [REDACTED] July 2013 given his statement that he left the DRC over a month before.

197. The Chamber considers these issues to be of significance both in relation to the case and its assessment of P-2269's evidence and is of the view that his evidence in these respects is unique and requires further clarification. The Chamber is cognisant of the fact that P-2269's statement was provided under rule 68(2)(c) of the Rules. In this respect, the Chamber notes that the parties had no opportunity to examine the witness and that his written statement was not accompanied by the formal declaration as to the truth of its contents set out under rule 68(2)(b)(ii) and (iii) of the Rules.

198. On the basis of the foregoing, the Chamber approaches P-2269's statement with caution and has assessed the reliability of his evidence on a case-by-case basis in light of other

[377] P-2269 stated that (i) his mother was killed by the Seleka, and he was angry [REDACTED]; (ii) [REDACTED]; (iii) [REDACTED] 'to fight the Seleka, to help lead the rebellion'; (iv) [REDACTED]; (v) [REDACTED] called the chiefs of the rebellion and 'told them all to meet near Bouca' by which time [REDACTED] himself had a large following of men who knew what had happened to him and followed him; (vi) the chiefs of the rebellion met to think and discuss what to do '[REDACTED]discussed what the Seleka were doing, the killings and disorder [and] [REDACTED] decided to chase Djotodia from power and restore peace; [REDACTED] decided to go to Bangui.'; (vii) they set up a base in Gobere and told people to gather there; (viii) he was in contact with Mokom; they would seek advice from each other [REDACTED]. *See* P-2269: CAR-OTP-2111-0336, at 0341-0343, 1347, paras 34-38, 42-54, 79.

[378] *See, for example*, P-2232: T-104, p. 22; P-2232: T-102, pp. 22, 25. In this regard, the Chamber notes P-2232's evidence concerning the events in Gobere and Maxime Mokom's involvement and that P-2232 attributed no role to P-2269 as regards [REDACTED] the gathering in Gobere.

[379] P-2269's [REDACTED] registration shows that he arrived in Zongo on [REDACTED] March 2013 and bears a registration date of [REDACTED] July 2013. *See* P-2269: CAR-OTP-2111-0336, at 0340, 0351, paras 25, 112, referring to document issued by [REDACTED], CAR-OTP-2111-0364.

evidence before it.

v) P-2328

199. Jean-Jacques Demafouth, a senior political figure in CAR, testified pursuant to rule 68(3) of the Rules and his prior recorded testimony, including his oral testimony given in the *Yekatom and Ngaïssona* case, was introduced into evidence.[380]

200. While not a direct insider within the Seleka, due to his various positions in the Central African State institutions before, during and after the time relevant to the charges,[381] Jean-Jacques Demafouth was well connected and proved to have vast knowledge on a variety of topics coming from various sources, including from his direct interactions with Michel Djotodia, Nouradine Adam and other senior Seleka members as well as other political figures in CAR.[382] He not only provided extensive information on the historical background to the conflict in the CAR, including the Seleka origins and objectives,[383] but also on his observations regarding the formation of the Anti-Balaka.[384]

201. The Chamber is also of the view that Jean-Jacques Demafouth was generally capable of differentiating in his answers between the sources of information and his own interpretation.[385] He was forthcoming and provided a significant detail concerning events and interactions in which he was personally involved. In particular, the Chamber considers that Jean-Jacques Demafouth was forthcoming in explaining when information he provided was based on intelligence to which he was privy to as a result of his official position.[386]

202. At the same time, the Chamber notes that Jean-Jacques Demafouth was and remains a

[380] [REDACTED]. P-2328: T-128, pp. 6-9.
[381] P-2328: CAR-OTP-2099-0165, at 0173-0174, paras 45, 49, draft translation: CAR-OTP-00000147, at 000009-000010, paras 45, 49; P-2328: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-046-CONF-ENG, pp. 82-86; P-2328: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-047-CONF-ENG, p. 7.
[382] *See, for example*, P-2328: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-046-CONF-ENG, p. 66.
[383] *See, for example*, P-2328: CAR-OTP-2099-0165, at 0215, paras 258-259, draft translation: CAR-OTP-00000147, at 000051, paras 258-259.
[384] *See, for example*, P-2328: CAR-OTP-2099-0165, at 0172, para. 39, draft translation: CAR-OTP-00000147, at 000008, para. 39.
[385] *See, for example*, P-2328: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-046-CONF-ENG, p. 22.
[386] P-2328: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-046-CONF-ENG, pp. 80, 87; P-2328: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-047-CONF-ENG, pp. 5-7, 55-56; P-2328: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-050-CONF-ENG, pp. 16-18.

senior political figure within the CAR and demonstrated a strained relationship with François Bozizé on a number of accounts. First, the Chamber notes that in 2008, Jean-Jacques Demafouth was the leader of *L'Armée populaire pour la restauration de la République et de la démocratie* (the 'APRD'), a group that been set up by former Presidential Guards under the former Central African President Ange-Felix Patassé, who had been deposed by François Bozizé in March 2003, and that this group was involved in clashes against François Bozizé's government since 2003 until a peace agreement was reached.[387] Jean-Jacques Demafouth testified that the APRD, under his leadership, participated in the Libreville agreements in 2008 with François Bozizé's government, together with other armed groups, some of which later joined the Seleka.[388] Second, the Chamber also notes Jean-Jacques Demafouth's evidence that, on one occasion, François Bozizé had wrongly implicated Demafouth in a coup against the then Central African president in 2001, which resulted in Demafouth being arrested, detained for over a year and prosecuted.[389]

203. The Chamber is of the view that this past association, in and of itself, does not undermine Jean-Jacques Demafouth's credibility or the general reliability of the evidence he provided about François Bozizé's political career, as well as the origin and evolution of the armed groups that joined to form the Seleka. The Chamber has assessed the reliability of his evidence concerning François Bozizé's activities on a case-by-case basis in light of other evidence before it.

204. On the basis of the foregoing, the Chamber concludes that Jean-Jacques Demafouth was a credible and generally reliable witness.

w) [REDACTED]

205. [REDACTED], a [REDACTED], testified pursuant to rule 68(3) of the Rules.[390]

206. At the outset, in assessing [REDACTED]'s credibility, the Chamber took into account the position held by the witness, as well as the nature and frequency of contact with the

[387] P-2328: T-128, pp. 25-27; P-2328: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-046-CONF-ENG, pp. 21-23.
[388] P-2328: T-128, pp. 45-46; P-2328: CAR-OTP-2099-0165, at 0172, 0215, paras 37, 258-259, draft translation: CAR-OTP-00000147, at 000008, 000051, paras 37, 258-259; P-2328: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-046-CONF-ENG, pp. 13, 37-42.
[389] P-2328: CAR-OTP-2099-0165, at 0171, paras 32-34, draft translation: CAR-OTP-00000147, at 000007, paras 32-34.
[390] [REDACTED].

OCRB Seleka at the relevant time.[391] Given the position of the witness during the period relevant to the charges, the Chamber assessed whether [REDACTED] may have had any potential motives and biases in testifying and may have had any involvement in the events under consideration (which was also assessed in light of the evidence as a whole). In the view of the Chamber, [REDACTED] exhibited no apparent motives or incentives to implicate Mr Said. The Chamber particularly noted that [REDACTED] did not demonstrate any bias against Mr Said, despite the [REDACTED] and the Seleka at the OCRB at the time.

207. While the Chamber is satisfied that material elements of [REDACTED]'s evidence are generally credible and reliable given the corroboration provided by other credible witnesses, particularly Benjamin Mallo, the Chamber treats certain aspects with caution for the reasons set out below.

208. First, the Chamber notes that [REDACTED] provided inconsistent information concerning matters that were key to the Chamber's determination. For example, [REDACTED]'s evidence concerning the hierarchy between Mr Said and Tahir Babikir is internally inconsistent.[392] [REDACTED] similarly provided inconsistent information concerning the relationship between the police and the OCRB Seleka.[393] Furthermore, certain details about events concerning detainees at the OCRB were unique and inconsistent with the evidence received from the detainees of the charged incidents.[394] Second, [REDACTED] expressed difficulty in remembering specific key dates[395] and demonstrated a tendency to relay information, material to the Chamber, that had been heard from others, without specifying the source of knowledge.[396]

209. In the view of the Chamber, these aspects did not impact the witness's credibility generally, nor render [REDACTED]'s evidence entirely unreliable. The Chamber considers that some of these inconsistencies were explainable by the passage of time or the witness not being privy to information concerning hierarchies and the internal organisation of the OCRB Seleka, as well as the fact that [REDACTED] at the OCRB.[397]

[391] [REDACTED].
[392] [REDACTED].
[393] [REDACTED].
[394] [REDACTED].
[395] [REDACTED].
[396] [REDACTED].
[397] *See* below para. 931.

However, the Chamber approaches [REDACTED]'s evidence with caution and has assessed the reliability of the witness's evidence on a case-by-case basis in light of other evidence before it.

x) P-2504

210. P-2504 testified that he was working in the [REDACTED] in March 2013, and after the Seleka took over Bangui, he was taken under the protection of a [REDACTED] who was in the Seleka at [REDACTED].[398] P-2504 testified fully *viva voce* primarily about incident G (the arrest and detention of [REDACTED]).

211. At the outset, the Chamber notes that P-2504 testified that he acted as his [REDACTED]'s assistant at the [REDACTED] and was responsible for [REDACTED].[399] Given P-2504's involvement with the Seleka at the [REDACTED], the Chamber considers him to be an insider witness and has treated his testimony with caution.

212. P-2504's testimony regarding this incident is also corroborated in part by the testimony of P-2607 and they both confirm in different ways the same essential story – that [REDACTED] was arrested by the OCRB Seleka at [REDACTED] and subsequently detained at the OCRB for a brief period of time at least until he was removed from the OCRB later that day.[400]

213. Beyond these essential details, as explained below, the Chamber finds that there were multiple contradictions in the accounts of the two witnesses regarding the detention of [REDACTED], in particular regarding the involvement of P-2504 and how he came to learn of these events. P-2504 testified that, while he was at the [REDACTED] in 2013, he received a telephone call from P-2607 who informed him that [REDACTED] (to whom P-2504 refers as [REDACTED]) had been stopped by the Seleka at [REDACTED] and asked whether the [REDACTED] could take action.[401] P-2504 clarified that P-2607 and 'his Seleka colleagues' who were based in the [REDACTED] had seen 'what was happening' at [REDACTED] as they were walking back from the [REDACTED].[402] P-

[398] P-2504: T-063, pp. 14-15.
[399] P-2504: T-063, pp. 14-16.
[400] P-2504: T-063, p. 21 *et seq*.; P-2504: T-064, p. 10 *et seq*. *See* below paras 952-953.
[401] P-2504: T-063, p. 22; P-2504: T-064, pp. 12-14.
[402] P-2504: T-064, pp. 12-14.

2504 testified that P-2607 then came to the [REDACTED], and told him that 'his [P-2607's] brother had been kidnapped'.[403] P-2504 stated that he went to [REDACTED], where he saw Colonel Mahamat Said in a vehicle with his soldiers 'heading off' with [REDACTED].[404]

214. P-2607 provides an account that entirely contradicts P-2504's description of these events. P-2607 did not mention calling P-2504 and stated that he was in [REDACTED]'s house when he heard of [REDACTED]'s arrest.[405] P-2607's description of his movements thereafter excludes any possibility that he was walking by [REDACTED] at the time of the arrest as P-2504 claimed. P-2607 also did not mention going to the [REDACTED] as P-2504 described. In the view of the Chamber, the contradictions in these accounts raise significant questions as to how P-2504 came to know of the arrest of [REDACTED], whether he was present as he claimed to have been when he was taken to the OCRB and in what capacity.

215. P-2504 testified that he followed the vehicles to their base, the OCRB Central, where he saw that [REDACTED] 'had been put in civilian clothing' and witnessed Colonel Said giving the order for him to be put in cell 3.[406] According to P-2504, he presented himself to Mr Said 'as [REDACTED]', and told Mr Said that he had come to inquire about a soldier who had been taken from [REDACTED] from within the territorial jurisdiction of the [REDACTED].[407] P-2504 testified that Mr Said told him to come back the next day.[408] P-2504 stated that he returned to the OCRB Central the following day and was informed that [REDACTED] had been executed at [REDACTED].[409] P-2504 stated he then visited P-2607 in person and told him the news about [REDACTED].[410] P-2607 does not mention P-2504 being involved in informing him of the death of [REDACTED].

216. The Chamber notes that, according to P-2504's version of events, he was in a position to observe key events, to ask questions of Mr Said and to inform P-2607 of how events

[403] P-2504: T-064, p. 14.
[404] P-2504: T-063, p. 23; P-2504: T-064, pp. 13-14.
[405] Addendum to P-2607's prior recorded testimony, CAR-OTP-00000751, at 000003; P-2607: T-042, p. 14, 44-45.
[406] P-2504: T-063, pp. 23-24.
[407] P-2504: T-063, pp. 23-24.
[408] P-2504: T-063, pp. 23-24.
[409] P-2504: T-063, pp. 21-25; P-2504: T-064, p. 17. *See also* (regarding the location of [REDACTED]) P-2504: T-063, p. 30.
[410] P-2504: T-064, pp. 16-18.

subsequently unfolded. The Chamber considers this account to lack credibility given the contradictory testimony of P-2607 and the position that P-2504 described holding at the [REDACTED] at the time where he was essentially under [REDACTED].

217. On the basis of the foregoing, the Chamber considers that the contradictions between the testimony of P-2504 and P-2607, whom the Chamber considers to be credible and reliable, fundamentally undermines his credibility. Accordingly, the Chamber does not rely on P-2504's testimony for the purposes of the present judgment.

y) [REDACTED]

218. [REDACTED], a Seleka member who was stationed at the OCRB during the period relevant to the charges,[411] testified fully *viva voce*, primarily about his participation in the Seleka advance on Bangui, the military police and the functioning of the OCRB.

219. At the outset, in assessing [REDACTED]'s credibility, the Chamber took into account the fact that he was an insider OCRB Seleka witness, who interacted with, *inter alia*, Mr Said and Mahamat Sallet during the events. In the view of the Chamber, the witness exhibited no apparent motives or incentives to implicate Mr Said and, to the contrary, exhibited discomfort in providing information that could be perceived as incriminating Mr Said.

220. [REDACTED] was deliberate and measured in answering questions. The Chamber also noted that [REDACTED] provided information that was in line with the type and level of knowledge that could be expected from a member of the Seleka with his background and position. [REDACTED] gave detailed information about the OCRB layout, its daily administration, the identities of the OCRB Seleka and Mr Said's role at the OCRB, which is consistent with other evidence on the record and with the evidence of other similarly situated OCRB witnesses.[412] The Chamber also notes that [REDACTED] identified [REDACTED] in a photograph of Seleka members and [REDACTED] indicated that the persons appearing in this photograph worked with him at the OCRB.[413]

221. At the same time, [REDACTED] was forthcoming in recognising the limits of his knowledge, for example, the wider relationships between high-ranking Seleka generals

[411] *See* below para. 221.
[412] *See, for example*, below paras [REDACTED].
[413] *See* [REDACTED].

and Djotodia or how operational decisions were taken at the strategic level.[414] [REDACTED] freely admitted his inability to recall the precise date of his deployment to the OCRB Central,[415] and was only able to provide an estimate [REDACTED] he spent at the OCRB[416] and in training at Camp Kassai.[417] [REDACTED] provided a detailed account of his movements after the Seleka arrived in Bangui and mentioned various events that occurred at the time he was based at the OCRB, which led the Chamber to understand that he would most likely have been based at the OCRB for [REDACTED].[418] Overall, the Chamber was satisfied that [REDACTED]'s confusion regarding the time he spent at the OCRB did not impact his credibility as a whole.

222. The Chamber noted that [REDACTED] tended to overemphasise the lawfulness of the Seleka operations at the OCRB and the military police, [REDACTED].[419] For example, [REDACTED] testified that the 'mission of the OCRB was to track down the bandits and to discipline them, those who took drugs and who were creating disorder in the neighbourhood' and to control the gangs more generally, and that the underground cell was used to punish rogue Seleka members.[420] As regards the military police, during his questioning by the Defence, [REDACTED] agreed, without qualifying any of his answers, that the military police had been instructed only to disarm unruly Seleka members, aimed to 'restore safety and security in Bangui', and 'arrested all delinquents and criminals' including Seleka members.[421] [REDACTED] also stated that the military police was set up to ensure that the *Forces armées centrafricaines* (Central African armed forces, hereinafter: 'FACA') would not be targeted, and that the instructions not to target FACA were given from the very beginning when the Seleka arrived in Bangui.[422]

223. As set out in the evidentiary analysis, the Chamber considers that [REDACTED]'s testimony on these points was not consistent with the broader picture regarding the Seleka's response to the commission of crimes and the genuineness of the response. The Chamber considers that [REDACTED]'s evidence in this regard may be attributable to

[414] [REDACTED].
[415] [REDACTED].
[416] [REDACTED].
[417] [REDACTED].
[418] [REDACTED].
[419] [REDACTED].
[420] [REDACTED].
[421] [REDACTED].
[422] [REDACTED].

an attempt to diminish his own role in the commission of crimes, or may be due to the fact that [REDACTED],[423] he was not fully trusted by the Seleka and was not privy to certain information or was misled as to their intentions. While the Chamber does not give a lot of weight to this evidence when viewed in the context of the evidence as a whole, it is satisfied that these elements of his testimony did not undermine his general credibility.

224. On the basis of the foregoing, the Chamber concludes that [REDACTED] was a credible and generally reliable witness. However, the Chamber approaches [REDACTED]'s evidence regarding the lawfulness of the Seleka's operations with caution and has assessed the reliability of his evidence on these matters on a case-by-case basis in light of other evidence before it.

z) P-2573

225. P-2573 is a Seleka insider who testified fully *viva voce* about, *inter alia*, the killing of several individuals travelling in a minibus who were stopped at PK9.

226. The Chamber noted that P-2573 was forthcoming in giving evidence and his account of the events he observed was rich in detail and internally consistent. For example, P-2573 provided extensive evidence regarding [REDACTED] and the manner in which they were led to the Oubangui River. In this regard, P-2573 provided detailed evidence regarding his position, the layout of Camp de Roux, the path to the river, what he could see (annotating a number of aerial maps (CAR-REG-0002-0119, CAR-REG-0002-0120) and a photograph (CAR-REG-0002-0117)),[424] and provided evidence on [REDACTED].[425] P-2573 was also able to identify the victims in photographs (for example, CAR-OTP-2017-0919), which P-1808 confirmed were victims of the minibus [REDACTED].[426]

227. P-2573's evidence is also consistent with other evidence, in particular the evidence of P-1967, in relation to the Seleka based in and the layout of Camp de Roux,[427] the

[423] [REDACTED].
[424] *See* P-2573: T-091, pp. 8-12, 33-36.
[425] *See* P-2573: T-093, pp. 28-31.
[426] *See* below paras 740-744.
[427] P-2573 was shown a photo depicting a number of Seleka in military uniforms (photograph, CAR-OTP-2069-2166), which he annotated with the individuals he recognised (annotated version, CAR-REG-0002-0121). Specifically, P-2573 marked with '2', *inter alia*, General Ahamat, noting that the latter was based at Camp de Roux: P-2573: T-091, pp. 40-41. The Chamber notes that, when shown the same photograph, P-1967,

treatment of Christian Seleka[428] and training at Camp Kassai.[429] P-2573 also clearly explained his basis of knowledge during his testimony and acknowledged when he did not know something.[430]

228. The Chamber noted that on occasion, P-2573 needed breaks to compose himself from the distressing nature of the events he was describing.[431] The Chamber observed that P-2573 was clearly impacted by what he recounted in court and has taken this into account when assessing the credibility of his account as a whole.

229. As to the Defence's arguments concerning inconsistencies in the evidence regarding P-2573's identity,[432] the Chamber observes that P-2573 initially testified that he had always been known by the name [REDACTED].[433] However, when asked what name he used in 2013, P-2573 clarified that he used the name [REDACTED] and confirmed that this was his birth name.[434] P-2573 explained that he changed his name from [REDACTED] to [REDACTED][435] in or around 2015[436] to protect himself because his

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[REDACTED], confirmed that this was General Ahamat and separately confirmed that he (Ahamat) was based at Camp de Roux: P-1967: CAR-OTP-2069-0498, at 0525-0526, para. 125 and at 0573, referring to photograph, CAR-OTP-2069-2166 (PA30136). P-2573 further testified that a Seleka named Kader was at Camp de Roux (P-2573: T-091, pp. 25-28) and the Chamber received evidence from P-1967 that Kader was based at Camp de Roux (P-1967: CAR-OTP-2069-0498, at 0529-0530, paras 138-143; P-2563: T-114, pp. 14, 16-17). P-2573 similarly annotated an aerial image of Camp de Roux, CAR-OTP-2119-0559, labelling a number of buildings in Camp de Roux (P-2573: T-091, pp. 33-35). The Chamber observes that P-2573's description of the layout of Camp de Roux is consistent with that of other witnesses: sketch drawn by P-1967, CAR-OTP-2069-0608, (in particular the location of Colonel Kader's base is consistent).

[428] *See* P-2573: T-090, pp. 38-39; P-1967: CAR-OTP-2069-0498, at 0511-0512, paras 62, 64.

[429] P-2573: T-093, pp. 17-18; P-1967: CAR-OTP-2069-0498, at 0527, para. 130.

[430] *See, for example*, P-2573: T-091, p. 7.

[431] *See, for example*, P-2573: T-091, p. 19.

[432] Defence Closing Brief, ICC-01/14-01/21-1039-Red, paras 129-130.

[433] P-2573: T-090, p. 23. The Chamber notes that during the course of his testimony, P-2573 sometimes inverted his first name(s) and his surname(s), but does not consider this to be significant. *See, for example*, P-2573: T-092, p. 6; P-2573: T-093, pp. 36-37.

[434] P-2573: T-090, pp. 23; P-2573: T-092, pp. 4-5, 19; P-2573: T-093, pp. 35, 37. The Chamber further notes that during a discussion of his father's name, P-2573 stated that the name that his father had given him at birth was '[REDACTED]' (*see* P-2573: T-092, p. 18). The Chamber understands from the witness's answers during this series of questions that [REDACTED] was P-2573's father's first name and not his first name: P-2573: T-092, pp. 16-19. The Chamber further notes that during a discussion of his birth certificate (P-2573's birth certificate, CAR-OTP-00036287, at 00002) and the details contained therein, P-2573 confirmed, as noted on his birth certificate, that he was the son of [REDACTED] and that he was born [REDACTED]. In this regard, when asked whether he bore the name [REDACTED] from birth, he answered that this was his authentic birth certificate (*see* P-2573: T-092, pp. 19-21). The Chamber considers that the witness's answers in this respect merely confirm the details on the birth certificate presented to him in court, which he stated was modified around 2015 to reflect his change of name from [REDACTED] to [REDACTED] (*see* P-2573: T-092, pp. 4-6), rather than a confirmation that he was born [REDACTED].

[435] P-2573 stated that [REDACTED] was his grandfather's surname. He testified that his father told him he would also like to change his name so they would have the same new surname. *See* P-2573: T-092, p. 6; P-2573: T-093, pp. 35-37.

[436] P-2573: T-090, p. 25; P-2573: T-092, p. 4.

association with the Seleka had tarnished his name, caused him disadvantage and created insecurity for him.[437] P-2573 also stated that he changed his name to [REDACTED] at this time because he wanted to sit an examination, which required him to obtain identity documents.[438]

230. The Chamber notes that P-2573 testified that when the Prosecution contacted him they were looking for [REDACTED] and, despite some initial misgivings, he confirmed that he was [REDACTED].[439] P-2573 stated that in order to protect himself, he did not disclose his new identity as [REDACTED] to the Prosecution until approximately 2023.[440]

231. In respect of the documents provided to the Court, the Chamber observes that P-2573's national identity card (dated [REDACTED]),[441] certificate of nationality (dated [REDACTED]),[442] and birth certificate (dated [REDACTED]),[443] all bear the name '[REDACTED]'.[444] In this regard, P-2573 explained that his surname was modified on his birth certificate, but his date of birth was not.[445]

232. The Chamber further notes that P-2573 maintained that he was born on [REDACTED] throughout his testimony,[446] which is consistent with both his birth certificate and national identity card.[447] P-2573 testified that between 2009 and 2012, before François

[437] P-2573 noted that [REDACTED] from the Anti-Balaka tried to kill him on three occasions: P-2573: T-090, pp. 24-25; P-2573: T-092, pp. 4-5, 7; P-2573: T-093, pp. 35-36.
[438] P-2573: T-092, pp. 4-6, 14. The Chamber notes that P-2573 initially testified that he sought a birth certificate and certificate of nationality because he wanted to sit an examination in 2015 for training to [REDACTED], and later suggested that new identity documents were necessary again because he wanted to sit an examination in 2016 to compete to become a [REDACTED]. The Chamber finds that P-2573's evidence in this regard is not inconsistent.
[439] While P-2573 testified that he was afraid when the Prosecution first contacted him and mentioned the name [REDACTED], he agreed to converse with them after they introduced themselves: P-2573: T-092, pp. 11-12, 16; P-2573: T-090, p. 25.
[440] P-2573: T-091, pp. 45-46; P-2573: T-092, pp. 15-16.
[441] National identity card, CAR-OTP-00036286.
[442] Certificate of nationality, CAR-OTP-00036287, at 00001.
[443] P-2573's birth certificate, CAR-OTP-00036287, at 00002. The Chamber notes that P-2573's birth certificate records his father's name as [REDACTED] and that P-2573 explained that his father said that he would like to change name so that they would both have the same new surname: P-2573: T-093, pp. 35-36. Consistent with his birth certificate, P-2573 testified that he was born on [REDACTED]: P-2573: T-090, p. 25; P-2573: T-092, p. 20; P-2573: T-093, p. 38.
[444] The national identity card indicates that P-2573's father's name is [REDACTED]. *See* national identity card, CAR-OTP-00036286.
[445] P-2573: T-093, pp. 37-38.
[446] P-2573: T-090, p. 25; P-2573: T-092, p. 20; P-2573: T-093, p. 38.
[447] P-2573's birth certificate, CAR-OTP-00036287, at 00002; national identity card, CAR-OTP-00036286, at 00001.

Bozizé left, he tried (unsuccessfully) to join the Central African army, stating that he was [REDACTED] years old at the time.[448] Similarly, P-2573 testified that he was [REDACTED] years old when he joined 'this army' (referring to the Seleka[449]).[450] The Chamber observes that, if he was born in [REDACTED], he would have been [REDACTED] years old in 2012 and [REDACTED] years old at the time of joining the Seleka (in early-mid 2013), and not the ages he stated in oral testimony. The Chamber recalls that a number of witnesses lied about their ages in order to get access to certain opportunities,[451] and the Chamber does not consider any discrepancies in this respect to impact P-2573's credibility. In this regard, the Chamber notes that the witness testified that he was trying to get work in order to take care of his mother and his family.[452] The Chamber observes that P-2573 was consistent throughout his evidence that he was born on [REDACTED], which is consistent with all of his identity documents presented to the Chamber.

233. Last, the Chamber recalls that the Defence showed P-2573 a document (CAR-OTP-2069-0332) which appears to contain a list of Seleka apparently registered for entry into the FACA, dated 10 October 2013.[453] The Chamber notes that, at entry 1850, a '[REDACTED]', born in Bria on [REDACTED] and based at '[REDACTED]', is listed. P-2573 indicated that this was not him, noting, *inter alia*, that there are many people who bear the name [REDACTED].[454] The Chamber is satisfied on the basis of P-2573's answers that the [REDACTED] mentioned in this document is not P-2573.

234. Having regard to the above, the Chamber is satisfied that P-2573 was born [REDACTED] and that he changed his name to [REDACTED][455] [REDACTED] in or around 2015. The Chamber accepts P-2573's explanations as to the reasons for changing his name and his evidence that his birth certificate was updated only to reflect his new name, without modifying the original date of issuance. Furthermore, the Chamber notes that the witness was consistent regarding his date of birth in his oral testimony and documentation.

[448] P-2573: T-092, pp. 25-26. *See also* P-2573: T-090, p. 24.
[449] P-2573: T-090, p. 34.
[450] P-2573: T-090, p. 37.
[451] *See, for example*, P-1167: T-034, p. 38; P-1737: T-045, pp. 34-35; P-2607: T-042, pp. 38-39.
[452] P-2573: T-090, p. 37.
[453] List, CAR-OTP-2069-0332.
[454] P-2573: T-092, pp. 47-48.
[455] The Chamber observes that the spelling of P-2573's first name on his identity documents differ to how he orally stated it in court ([REDACTED] vs [REDACTED]). The Chamber finds that nothing turns on this minor discrepancy regarding the spelling of P-2573's first name and its phonetic discussion in court.

Finally, the Chamber cannot discern any clear motive for the witness to lie about his identity and pretend to have had a different name in 2013. Accordingly, the Chamber considers that P-2573's credibility is unaffected by the change of name and rejects the Defence's submissions in this regard.[456]

235. On the basis of the foregoing, the Chamber concludes that P-2573 was a credible and reliable witness.

aa) P-2607

236. P-2607 was a [REDACTED] prior to the Seleka takeover of Bangui, [REDACTED] after his brother was killed by the Seleka on [REDACTED] June 2013.[457] P-2607 testified pursuant to rule 68(3) of the Rules, primarily about [REDACTED]'s arrest and detention at the OCRB (Incident G).

237. The Chamber found P-2607's testimony to be truthful. The Chamber noted that P-2607 did not embellish his testimony,[458] openly recognised the limits of his knowledge or recollection,[459] and was clear as to when he personally witnessed something and when he heard something from others.[460] In this regard, the Chamber notes that although P-2607's initial statement indicated that he was present when [REDACTED]'s family was informed of his arrest,[461] he clarified during the witness preparation session that he was not actually there and had heard about this subsequently.[462] The Chamber considers this to reflect the witness's concern to be accurate and truthful in specifying the limits of his knowledge regarding the detention and killing of [REDACTED] and does not consider this to detract from his credibility.

238. Overall, the Chamber found that the level of detail P-2607 provided in setting out his knowledge of various events lent credibility to his narrative, noting also that he

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[456] *Contra* Defence Closing Brief, ICC-01/14-01/21-1039-Red, paras 129-130.
[457] P-2607: CAR-OTP-2125-0855, at 0857, para. 12. *See also* addendum to P-2607's prior recorded testimony, CAR-OTP-00000751, at 000001; P-2607: T-042, pp. 26, 32-34. The Chamber notes that P-2607 indicated that [REDACTED].
[458] *See, for example*, P-2607: T-042, pp. 38-39 (where the witness was forthcoming in explaining the date of birth on his identification card).
[459] *See, for example*, P-2607: T-042, pp. 10, 17, 25, 45.
[460] *See, for example*, P-2607: T-042, p. 17 (clarifying that he was not nearby at the time of the arrest and heard from others present that shots had been fired).
[461] P-2607: CAR-OTP-2125-0855, at 0857, para. 15.
[462] Addendum to P-2607's prior recorded testimony, CAR-OTP-00000751, at 000003. *See also* P-2607: T-042, p. 14.

volunteered information and explanations freely.[463]

239. As explained above in the assessment of the evidence of P-2504, the multiple contradictions in the accounts of the two witnesses regarding the involvement of P-2504, how P-2504 came to learn of the detention of [REDACTED] and the Chamber's doubts regarding P-2504's credibility led it to disregard the testimony of P-2504.

240. On the basis of the foregoing, the Chamber concludes that P-2607 was a credible and reliable witness.

bb)P-2692

241. P-2692, [REDACTED],[464] testified pursuant to rule 68(3) of the Rules, primarily about his detention at the OCRB (Incident C).

242. The Chamber considers P-2692's evidence to be credible. P-2692 was forthcoming in acknowledging which details he could not remember precisely, such as the date he was initially apprehended by the Seleka. [465] His account was internally consistent and had the mark of a truthful recounting from memory.

243. In respect of P-2692's reference to Mr Said,[466] the Chamber notes that P-2692 did not mention him during his interview with the investigators, but spoke about a Colonel whom he believed to have been in charge of the OCRB.[467] During his witness preparation session, P-2692 mentioned the name 'Said' and 'Mahamat', but did not clearly link these names to the Colonel he previously described.[468] The Chamber also notes that P-2692 was unable to recognise Mr Said in photographs shown to him during his witness preparation session.[469] As explained in the Chamber's assessment of the evidence relating to Incident C below, the Chamber was not satisfied, on the basis of the evidence, that the Colonel mentioned by P-2692 was Mr Said. The Chamber considers that these references to 'Said' and 'Mahamat' without further explanation did not negatively impact

[463] *See, for example*, P-2607: T-042, pp. 25-26 (explaining how [REDACTED]), 37 (explaining how [REDACTED]).
[464] P-2692: CAR-OTP-2125-0922, at 0924, para. 12.
[465] P-2692: CAR-OTP-2125-0922, at 0924, para. 12.
[466] Defence Closing Brief, ICC-01/14-01/21-1039-Red, paras 6, 428.
[467] *See* P-2692: CAR-OTP-2125-0922, at 0925, para. 22.
[468] Addendum to P-2692's prior recorded testimony, CAR-OTP-00000767, at 000003.
[469] Addendum to P-2692's prior recorded testimony, CAR-OTP-00000767, at 000004, referring to photographs, CAR-OTP-2069-3226, CAR-OTP-2069-3227, CAR-OTP-2094-2006. *See also* above para. 6.

the credibility of the witness's account as a whole.

244. On the basis of the foregoing, the Chamber concludes that P-2692 was a credible and generally reliable witness.

cc) P-3047

245. P-3047, who testified pursuant to rule 68(3) of the Rules,[470] was [REDACTED][471] and was detained at the OCRB during the period relevant to the charges.[472] P-3047 was a forthcoming witness, who was able to clarify his evidence when required.[473]

246. The Chamber notes that P-3047's evidence of his experience during his detention at the OCRB is largely consistent with that of other witnesses who were detained there during this timeframe. The Chamber observes that P-3047's detention at the OCRB is supported by a number of contemporaneous documents which were provided by the witness.[474]

247. In respect of the reasons why P-3047 was detained at the OCRB, the Chamber notes the Defence, in its response to the Prosecution's rule 68 application for P-3047, submitted that P-3047 [REDACTED], and thus has an impact on his credibility.[475] [REDACTED].[476]

248. The Chamber notes that this issue was explored with P-3047 during his oral testimony. P-3047 testified in court that, [REDACTED].[477] [REDACTED].[478] [REDACTED].[479] [REDACTED].[480] [REDACTED].[481] The Defence questioned P-3047 about [REDACTED].[482]

249. The Chamber is satisfied with P-3047's explanations in this respect and considers that

[470] The Chamber notes that the Prosecution originally sought to introduce P-3047's prior recorded testimony pursuant to rule 68(2)(b) of the Rules, but this was rejected by the Chamber which instead determined that his prior recorded testimony be introduced pursuant to rule 68(3) of the Rules. *See* [REDACTED].
[471] P-3047: CAR-OTP-2130-6904, at 6906, para. 12.
[472] P-3047: CAR-OTP-2130-6904, at 6908, 6922, para. 20; P-3047: T-065, pp. 10-11.
[473] *See, for example*, P-3047: T-065, pp. 10-11.
[474] *See* P-3047: CAR-OTP-2130-6904, at 6921-6922.
[475] Defence Response to the Sixth 68(2)(b) Request, ICC-01/14-01/21-398-Conf, paras 63-64.
[476] [REDACTED].
[477] P-3047: T-065, pp. 44, 47-48.
[478] P-3047: T-065, pp. 47-49.
[479] P-3047: T-065, p. 48.
[480] P-3047: T-065, p. 49.
[481] P-3047: T-065, p. 49.
[482] P-3047: T-065, p. 49.

this issue has no bearing on his credibility. In this regard, the Chamber notes that P-3047 gave clear evidence regarding the reasons for his arrest stating that people in Boy Rabe thought he [REDACTED], that the Seleka came for him because in their minds he was [REDACTED], and that when interrogating him, Nouradine Adam told him that he had a lot of information about François Bozizé.[483]

250. On the basis of the foregoing, the Chamber concludes that P-3047 was a credible and reliable witness.

dd) Victims detained on or about 18 August 2013 in the underground cell

251. Several witnesses testified about their detention in the underground cell at the OCRB. In assessing the credibility of these witnesses and the reliability of their evidence, the Chamber had particular regard to the extent to which their accounts corroborate each other, and the overall consistency of their evidence with other evidence available to the Chamber.

252. The Chamber notes the Defence's argument that witnesses who were detained in the underground cell do not reference each other.[484] The Chamber assessed these accounts individually and, where applicable, in relation to other accounts in concluding who was detained in the underground, when, for how long and in what circumstances. Having regard to its general approach set out above, the Chamber considers that the witnesses' credibility is not negatively affected when they demonstrated an inability to recall all the details about their fellow detainees or provided inconsistent information about them, given the traumatic circumstances in which they were detained and the passage of time since these events. The Chamber also notes that some of the witnesses detained in the underground cell were taken out of the cell at various points in time and that some were released and did not remain in the underground cell for the entire time between 18 and 31 August 2013. The Chamber considered that this also had an impact on the extent of information they were able to provide about their fellow detainees. As set out in detail below, the Chamber notes that some of these witnesses do reference each other and give evidence about their fellow detainees. When the witnesses referred to each other in their evidence, the Chamber assessed this with due regard to the approximate date that the

[483] P-3047: CAR-OTP-2130-6904, at 6907, 6912 paras 19, 41; P-3047: T-065 p. 16.
[484] Defence Closing Brief, ICC-01/14-01/21-1039-Red, paras 328-335.

OCRB Seleka put each of them in the underground cell.

i. P-3053, P-3056 and P-3064

253. P-3064, P-3056 and P-3053 gave evidence in relation to Incident M. Given that P-3053, P-3056 and P-3064 refer to each other and their evidence relates to the same incident, the Chamber has set out its views as to the credibility and reliability of their accounts together.

254. P-3064 and P-3056 testified fully *viva voce* before the Chamber.[485] P-3053's statement to the Prosecution investigators was introduced pursuant to rule 68(2)(c) of the Rules as the witness passed away before being able to testify in court.[486] The Chamber has had regard to the fact that P-3053's statement was provided under rule 68(2)(c) of the Rules, that the parties had no opportunity to examine the witness and that his written statement was not accompanied by the formal declaration as to the truth of its contents set out under rule 68(2)(b)(ii) and (iii) of the Rules.[487]

255. The Chamber considers P-3064 to be credible and generally reliable, subject to minor inconsistencies that have been addressed in the evidentiary analysis below.[488] P-3064 also supports central parts of P-3053's and P-3056's accounts regarding their arrest by the Seleka at the funeral of a family member, the detention at the OCRB Ngouciment and the subsequent detention in the underground cell at the OCRB Central. P-3053's account of being detained in the underground cell after P-3056 and P-3064 were released is also supported by P-0547, who was detained with P-3053 during this time and whom the Chamber found to be credible.[489]

256. While the Chamber is satisfied that material elements of P-3053's and P-3056's statements are credible and reliable given the corroboration provided by other credible witnesses as to their detention at the OCRB, the Chamber treats certain aspects of their accounts with caution for the reasons set out below.

257. P-3053 placed Mr Said and Yaya Soumayele (also known as Soumaine) (hereinafter:

[485] P-3064: T-074, T-075, T-076; P-3056: T-020, T-021, T-022.
[486] [REDACTED].
[487] *See* above para. 68.
[488] The Chamber notes that P-3064 provided a clear and internally consistent account, specified the source of his knowledge and demonstrated a genuine willingness to assist the Chamber in ascertaining the truth.
[489] *See* below paras 266-272.

Yaya) at the scene of their arrest and described them as having an active role in their arrest and subsequent detention. In particular, P-3053 referred to Mr Said and Yaya as the leaders of the arrest 'operation',[490] and stated that Mr Said brought them to the OCRB Ngouciment and then drove them to the OCRB Central the next morning.[491] Although P-3053 is the only witness out of the three witnesses who were present to place Mr Said at the scene of the arrest, P-3056 did testify that Mr Said transported them from the OCRB Ngouciment to the OCRB Central.[492] P-3053 also gave evidence of Mr Said seizing money from him.[493]

258. The Chamber notes that P-3053's description of Mr Said's physical appearance does not correspond to other evidence before it, noting in particular that he described Mr Said as having very long black hair and a chest-length salt and pepper beard .[494] The Chamber also notes that P-3053 was unable to identify Mr Said in several contemporaneous photographs shown to him during his interview.[495] Similarly, P-3053's description of Soumayele aka Soumaine (who was also a Seleka member at the OCRB) as having a long, dyed red beard[496] does not correspond to that of other witnesses', who generally describe him as having no facial hair, or otherwise make no mention of a 'long beard, dyed red'.[497] In these circumstances, the Chamber concludes that P-3053's identification of Mr Said and Yaya is inaccurate and does not rely on his evidence regarding the

[490] P-3053: CAR-OTP-2130-6359, at 6362, paras 17-18.
[491] P-3053: CAR-OTP-2130-6359, at 6362, 6364-6365, paras 17, 34-36, 38.
[492] P-3056: T-020, pp. 17-20.
[493] P-3053: CAR-OTP-2130-6359, at 6365, para. 36. *See also* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 501. P-3056 and P-3064 did not mention this: P-3056: T-021, p. 38; P-3064: T-074, p. 14.
[494] P-3053: CAR-OTP-2130-6359, at 6364-6365, paras 29, 34. *See* P-1004: CAR-OTP-2043-0536, at 0540, para. 31; P-2241: CAR-OTP-2092-3851, at 3863, para. 60; [REDACTED]; P-1429: CAR-OTP-2049-0166, at 0174, para. 49; P-2400: CAR-OTP-2104-0424, at 0432-0433, para. 41. *See also* photographs, CAR-OTP-2069-3226, CAR-OTP-2069-3227. *See also* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 500.
[495] P-3053: CAR-OTP-2130-6359, at 6372-6373, paras 80-82, referring to photographs, CAR-OTP-2069-3226, CAR-OTP-2069-3227, CAR-OTP-2094-2006. *See also* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 500.
[496] P-3053 stated that Yaya was of average height, dark-skinned and muscular; he had a long beard, dyed red. He was wearing military clothing and a pair of sandals. His hair was cut short and he had a yellow scarf round his neck. He had gris-gris round both his arms and his neck. P-3053 also stated that he knew Yaya before the events because [REDACTED]. According to P-3053, Yaya spoke Sango, with an accent that was not from CAR. P-3053: CAR-OTP-2130-6359, at 6362-6363, paras 19, 28. The Chamber notes that during his interview with the investigators, P-3053 was not shown any photos of Yaya.
[497] P-0338: T-017, pp. 69-70 (described him as tall, 'quite robust' and black); P-1429: CAR-OTP-2049-0166, at 0175, para. 60 (described him as '1.68 metres tall, black-skinned, had short hair and no beard or moustache' and being able to speak 'French, Sango and Arabic'); P-2337: CAR-OTP-2104-0411, at 0417, para. 32 (described him as short and of dark complexion and still wearing his FACA uniform and a red beret; he was less than 30 years old and spoke Sango); P-2400: CAR-OTP-2104-0424, at 0434, para. 47 (described him as 'short, fat, clean shaved, trimmed hair', which was later shaved). *See also* below paras 1165-1168.

activities of these individuals.

259. As regards the remaining aspects of P-3053's statement, the Chamber notes that he provided details that are not reflected in the evidence of other witnesses who were arrested together with him, namely P-3064 and P-3056. For example, P-3053 stated that a group of six persons were arrested at the same time as him, although P-3064 and P-3056 testified that there were four men.[498] P-3064 stated that he did not recognise the names of the two additional detainees identified by P-3053,[499] and, while P-3056 included one of the additional names identified by P-3053 on a list of detainees that he had handwritten, he clarified in court that he had confused this name with that of another person who was detained in the same cell as them at the OCRB.[500]

260. Given that P-3053's statement diverges from those of his co-detainees in significant respects and that it was not possible to examine the witness in court regarding these issues, the Chamber treats his statement with caution and relies on it only to the extent that it was consistent with the evidence provided by P-3056, P-3064 and P-0547.

261. Turning to P-3056, the Chamber considers that two aspects of his testimony concerning Incident M were not reliable, namely, the seizure of money from him and the handwritten notes he prepared after the events, as set out in detail below.

262. First, P-3056 testified that Mr Said seized a significant sum of money from him during his detention at the OCRB (CFA 15,000,000), which he claimed originated from [REDACTED] in 2012.[501] When asked why he had this amount of money in his possession, P-3056 testified that he did not have a bank account at the time and that carrying the money with him would have been more secure than leaving the money in his house.[502] The witness described storing the money in his underwear in a plastic pouch about the size of an A4 paper.[503] The Chamber notes that the Defence suggested that the

[498] According to P-3053, the Seleka arrested two additional individuals named [REDACTED] and [REDACTED]: P-3053: CAR-OTP-2130-6359, at 6363, para. 24. The remaining two witnesses relevant to this incident mentioned that only four men were taken away from the funeral. When asked whether he recognised the names of the additional individuals, P-3064 testified that he did not remember these names: P-3064: T-075, p. 30. *See also* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 498.
[499] P-3064: T-075, p. 30.
[500] P-3056: T-021, pp. 69-70, referring to addendum to P-3056's prior recorded testimony, CAR-OTP-00000276, at 000004, referring to P-3056's handwritten notes, CAR-OTP-2130-6663.
[501] P-3056: T-020, p. 16; P-3056: T-021, pp. 41-42.
[502] P-3056: T-021, pp. 16, 47.
[503] P-3056: T-021, pp. 16, 44-46.

size of a stack of notes corresponding to this sum would have been much thicker and more noticeable than the witness described.[504] The Defence also highlighted the unlikelihood of P-3056's money only being seized at the OCRB despite him having been searched earlier, before they arrived at the OCRB.[505] The Chamber notes that the seizure of a noticeable sum of money from P-3056 was not mentioned by the other two witnesses (P-3064 and P-3053), who were arrested with him and were present at the time of the events described by P-3056. Having regard to the Defence's argument and the Chamber's observations as stated above, the Chamber does not consider P-3056's claims concerning the seizure of such a large sum of money from him at the OCRB by Mr Said to be credible.

263. Second, the Chamber notes that P-3056 provided an account of his detention handwritten on multiple pieces of paper that he offered to the Prosecution investigators when they interviewed him in [REDACTED] 2021.[506] P-3056 stated that he wrote these notes immediately after being released from detention at the OCRB, around August or September 2013.[507] The Chamber notes that the six-page account purportedly written by P-3056 contains colour photos of the first four pages (which show the quality of the paper used as well as the colour of the ink)[508] while the last two pages appear to be photographs of photocopies of the written account, as opposed to the original paper.[509] These last two pages of this account contain a footer with a reference to an [REDACTED].[510] The Chamber further notes that the witness was unable to offer an explanation when the Defence asked him about the footer referencing events from 2021.[511] On the basis of the foregoing, the Chamber has doubts as to when these notes were created, and accordingly has not relied on these handwritten notes in its evidentiary analysis.

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[504] According to the Defence, the sum of money given by the witness would amount to 1,500 notes of CFA 10,000, which would roughly be 22.5 centimetres thick: P-3056: T-021, p. 46. *See also* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 501; P-3056 stated that the stack was about 3-4 centimetres thick: P-3056: T-021, p. 45.
[505] P-3056: T-021, pp. 37-38; Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 501.
[506] P-3056: T-021, p. 65, referring to handwritten documents, CAR-OTP-2130-6658, CAR-OTP-2130-6659, CAR-OTP-2130-6660, CAR-OTP-2130-6661, CAR-OTP-2130-6662, CAR-OTP-2130-6663; P-3056: CAR-OTP-2135-4385, at 4386.
[507] P-3056: T-021, p. 66.
[508] Handwritten documents, CAR-OTP-2130-6658, CAR-OTP-2130-6659, CAR-OTP-2130-6660, CAR-OTP-2130-6661.
[509] Handwritten documents, CAR-OTP-2130-6662, CAR-OTP-2130-6663.
[510] Handwritten documents, CAR-OTP-2130-6662, CAR-OTP-2130-6663.
[511] P-3056: T-021, pp. 67-68. The Chamber further notes that the Defence asked him about the participation of [REDACTED]. The witness responded that [REDACTED]. *See* P-3056: T-021, p. 70; P-3056: T-022, pp. 3-5, referring to list of [REDACTED], CAR-D33-0013-0001. *See also* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 505.

264. In the view of the Chamber, these issues undermined the credibility of P-3056. Therefore, the Chamber relies on the remainder of his testimony only to the extent that it was corroborated by other credible and reliable evidence. In this regard, the Chamber notes that aspects of P-3056's testimony are material to Mr Said's involvement in the detention of the Incident M detainees. For example, P-3056 testified that Mr Said had given the instruction that P-3056 and the others be isolated from their relatives for a period of seven days.[512] He also testified that Mr Said drove them to Prosecutor Tolmo's office,[513] and that Mr Said slapped one of the detainees before transporting them to the tribunal.[514] Noting that these aspects of P-3056's testimony are unique and uncorroborated, the Chamber does not rely on this evidence for the purposes of the present judgment.

265. On the basis of the foregoing, while the Chamber considers P-3064 to be a credible and reliable witness, it treats the evidence of P-3056 and P-3053 with caution and relies on it only to the extent that it was corroborated by other credible and reliable evidence.

ii. P-0547

266. P-0547, a [REDACTED] at the time of the events, testified fully *viva voce* primarily about the events in Boy Rabe in 2013 and his detention and mistreatment at the OCRB.

267. The Chamber considers P-0547's account of his detention and mistreatment by the Seleka detailed, compelling and genuine. During his testimony at the seat of the Court, the Chamber was in a position to observe the effects of the physical mistreatment from which he continues to suffer.[515]

268. As regards his testimony, the Chamber considers that P-0547 clearly distinguished between events that he observed directly and those he did not.[516] P-0547 also acknowledged when he did not know the answer to a question and was forthcoming in his answers.[517] The Chamber observed that, as regards Mr Said, P-0547 limited his testimony to what he personally witnessed Mr Said doing, explicitly noting when he

[512] P-3056: T-020, pp. 21, 24.
[513] P-3056: T-020, p. 34.
[514] P-3056: T-021, pp. 49, 61. P-3053 did not describe going to the *Tribunal de Grande Instance* in Bangui: P-3053, CAR-OTP-2130-6359, at 6370, para. 63. P-3064, who gave evidence about being released following an appearance before the *Tribunal de Grande Instance* in Bangui, made no mention of Mr Said being involved in bringing the detainees concerned to the tribunal: P-3064: T-074, pp. 24, 35-36; P-3064: T-076, p. 7.
[515] *See* P-0547: T-013, p. 53.
[516] *See, for example*, P-0547: T-012, pp. 21-22; P-0547: T-013, p. 33; P-0547: T-016, pp. 14-15.
[517] *See, for example*, P-0547: T-013, p. 13; P-0547: T-012, pp. 21, 28, 35; P-0547: T-014, p. 26.

could not attest to Mr Said's presence or involvement.[518] There were no indications in his evidence that P-0547 embellished his account. In the view of the Chamber, P-0547's emotional response in reply to questions put by both the Prosecution and Defence, and particularly when talking about his mistreatment at the OCRB, also demonstrated a willingness to provide a truthful account of the events.[519]

269. At the same time, the Chamber considers that P-0547's recollections of the chronology of the events, minor details about his detention, and details about the detention of other individuals in the underground cell were vague.[520] The Chamber also notes that P-0547 was unable to recall details concerning the items that were taken from his home when it was looted and there were inconsistencies in his evidence concerning the exact layout of the OCRB.[521]

270. The Chamber considers that these inconsistencies were explainable given the conditions of his detention, the passage of time since the events and the severe mistreatment to which P-0547 was subjected. In the Chamber's view, these inconsistencies did not undermine the credibility of P-0547's account concerning his own detention in the underground cell. In this respect, the Chamber notes that a number of other witnesses[522] also gave evidence about P-0547's detention at the OCRB. The Chamber also did not consider that P-0547's credibility was affected by the Defence's questioning about his involvement in civil society and his alleged association with individuals purported to be linked to the Anti-Balaka.[523]

271. Furthermore, the Chamber considers that a lack of precision in his evidence concerning his fellow detainees does not render his testimony entirely unreliable. On the contrary, the Chamber notes that this evidence is relevant to the timeframe of the events and conditions of other detainees underlying Incidents M, P, Q, as well as P-1762 and P-1432. Accordingly, as regards the chronology and experiences of his fellow detainees, the Chamber relied on his account to the extent it was internally consistent or otherwise

[518] *See, for example*, P-0547: T-013, p. 33; P-0547: T-012, p. 56.
[519] *See, for example*, P-0547: T-013, p. 31; P-0547: T-016, pp. 18-19.
[520] *See for example*, below para. 1480.
[521] P-0547: T-012, p. 29; P-0547: T-015, pp. 42-45; P-0547: T-016, pp. 4-5. The Chamber notes that there were differences in the two sketches of the OCRB premises that he drew from memory. *See* sketches, CAR-OTP-2018-0423 (drawn in 2015), CAR-REG-0002-0014 (drawn in court in 2022). *See also* P-0547: T-016, p. 36.
[522] P-0338, P-0353, P-2280, P-1297 and P-0119.
[523] *See, for example*, P-0547: T-014, pp. 64-69.

corroborated by or consistent with other evidence.

272. On the basis of the foregoing, the Chamber concludes that P-0547 was a credible and generally reliable witness.

iii. P-2400

273. P-2400, [REDACTED], testified pursuant to rule 68(3) of the Rules,[524] primarily about his detention at Camp de Roux and the OCRB (Incident Q).

274. P-2400's account was largely internally consistent and had the mark of truthful recounting from memory. P-2400 clearly distinguished between events that he observed directly and those he did not.[525] P-2400 also acknowledged when he did not know the answer to a question and was forthcoming in his answers.[526] The Chamber observed that, as regards Mr Said, P-2400 limited his testimony to what he personally witnessed Mr Said doing, explicitly noting when he could not attest to Mr Said's presence or involvement.[527]

275. At the same time, the Chamber notes that P-2400's evidence concerning when the Seleka detained him was highly inconsistent, in that his estimates (June 2013) were a few months apart from those provided by other witnesses to the events (August 2013).[528] The Chamber considers that his explanation as to how he arrived at that estimate was also inconsistent with that provided by another witness.[529] Additionally, the Chamber notes that P-2400's evidence is vague and sparse concerning other detainees with whom he was detained in the underground cell.[530]

276. The Chamber considers that these inconsistencies were explainable given the conditions of his detention, the passage of time since the events and the severe mistreatment to which P-2400 was subjected before being brought to the OCRB. In the Chamber's view, these inconsistencies did not undermine the credibility of P-2400's account concerning his own detention in the underground cell. In this respect, the Chamber also notes that it was in a

[524] [REDACTED].
[525] *See, for example*, P-2400: T-030, p. 35
[526] *See, for example*, P-2400: T-030, pp. 36, 42.
[527] *See, for example*, P-2400: T-031, pp. 13, 25.
[528] *See* below para. 1493.
[529] *See* below para. 1493.
[530] *See* P-2400: CAR-OTP-2104-0424, at 0433-0435, paras 45, 50-51.

position to assess P-2400's account given that it received evidence about his detention at the OCRB in the underground cell from other witnesses.[531]

277. In the view of the Chamber, these inconsistencies, resulting from a lack of precision regarding dates and the number of people in the underground cell, were not such that rendered his testimony entirely unreliable. However, the Chamber notes that this evidence was relevant in assessing the timeframe of the events, the length of his detention and the conditions of other detainees who were the victims mentioned in Incidents M, O and Q, as well as P-1762 and P-1432. Accordingly, as regards the dates and experiences of P-2400's fellow detainees, the Chamber relied on his account to the extent it was internally consistent or otherwise corroborated by or consistent with other evidence.

278. On the basis of the foregoing, the Chamber concludes that P-2400 was a credible and generally reliable witness.

iv. P-1762 and P-1432

279. P-1762 and P-1432, who were [REDACTED] when the Seleka took over Bangui on 24 March 2013,[532] gave evidence primarily about the immediate aftermath of the Seleka takeover and their detention at the OCRB.[533] P-1762 testified pursuant to rule 68(3) of the Rules.[534] P-1432's prior recorded testimony was introduced pursuant to rule 68(2)(b) of the Rules.[535]

280. Both witnesses gave largely consistent evidence about how the Seleka detained them, together with other persons, in a container at Sapeurs-Pompiers before bringing them to the OCRB and detaining them in the underground cell.[536] Their accounts were internally consistent, as well as consistent with other evidence received by the Chamber.[537] P-1762,

[531] P-2337, P-2239 and P-2241.
[532] P-1762: T-080, p. 7; P-1432: CAR-OTP-2073-0743, at 0746, paras 11, 13-14.
[533] The Chamber recalls that the Pre-Trial Chamber did not confirm the charges brought in relation to the alleged detention and mistreatment of P-1432 and P-1762 at the OCRB. The Chamber will consider their evidence to the extent that it is relevant to and probative of other allegations in this case. *See* above para. 9.
[534] [REDACTED]; P-1762: T-080, T-081.
[535] [REDACTED].
[536] P-1762: CAR-OTP-2073-0568, at 0574, 0576-0578, paras 31, 42, 52, 55, 57, 60; P-1762: T-081, p. 12; P-1432: CAR-OTP-2073-0743, at 0748-0750, paras 26, 35, 39, 41.
[537] *See, for example*, P-1762: CAR-OTP-2073-0568, at 0570-0571, paras 15, 19 (calls for the FACA members to return to work, directing them to gather at ENAM), at 0579-0580, paras 66-68 (description of the underground cell and conditions therein), at 0581-0582, paras 80-81 (ceremony marking the departure of the Seleka from the OCRB); P-1432: CAR-OTP-2073-0743, at 0750, para. 45 (presence of a paralysed man in the underground cell, which the Chamber understands to be a reference to P-0547), at 0750, para. 47 ([REDACTED]), at 0751, para. 54 (Seleka being driven out of the OCRB at some point during his detention).

in particular, clearly distinguished between events that he observed directly and those he did not, including when providing evidence on key facts.[538] Both witnesses also acknowledged when they did not know the answer to a question and were forthcoming.[539]

281. The Chamber observed that neither witness mentioned Mr Said in their accounts. In his statement, P-1432 mentioned a Seleka member being in charge at the OCRB and provided a physical description.[540] P-1432 also recalled that his information was limited as this Seleka member did not speak to him and because he (P-1432) remained in 'the hole most of the time, and couldn't see anything'.[541] P-1762 testified that there was a Seleka member working in the office where the underground cell was located, but that he did not know his name.[542]

282. At the same time, the Chamber notes that P-1762's and P-1432's evidence did not point to an exact date of their detention at the OCRB, with estimates ranging from August to September 2013.[543] The Chamber considers the evidence from both witnesses concerning their fellow detainees in the underground cell was vague.[544] The Chamber also notes the

[538] *See, for example*, P-1762: CAR-OTP-2073-0568, at 0576, para. 42 (relaying information he received from a fellow detainee), at 0576, para. 43 (noting that the Seleka detainees did not divulge why they had been imprisoned), at 0578, para. 58 (acknowledging his assumption and the basis thereof), at 0580, para. 68 (not being able to describe the Seleka members who gave water to the detainees because he was unable to see them well enough), at 0580-0581, para. 75 (qualifying his answers concerning the presence of police officers at the OCRB to what he observed or believed to be the case).
[539] *See, for example*, P-1762: CAR-OTP-2073-0568, at 0570, para. 13 (stated that he did not know why the Seleka were looking for FACA soldiers), at 0575, para. 37 (stated that he did not know details about General Moussa's interpreter), at 0575, para. 40 (stated that he was unable to provide an estimate of the number of people detained in the container), at 0576, para. 45 (stated that he did not recall the condition of other prisoners in the container), at 0576, para. 45 (stated that he did not know why the others had been arrested), at 0580, para. 74 (stated that he did not know whether other prisoners were beaten at the OCRB), at 0581, para. 79 (stated that he did not know whether there were prisoners in other cells). *See also* P-1432: CAR-OTP-2073-0743, at 0747, para. 25 (stated that he did not know why another person was detained), at 0749, para. 39 (stated that he did not know the Seleka members who transferred him from Sapeurs-Pompiers to the OCRB), at 0750, para. 43 (stated that he did not know the names of other detainees in the underground cell), at 0751, para. 56 (stated that he did not know the names of other detainees at the OCRB).
[540] P-1432: CAR-OTP-2073-0743, at 0751, para. 52.
[541] P-1432: CAR-OTP-2073-0743, at 0751, para. 52.
[542] P-1762: CAR-OTP-2073-0568, at 0578, para. 60; P-1762: T-081, p. 12. The Chamber notes that other witnesses have identified Mr Said's office being located above the floorboards covering the underground cell. *See* below paras 1094, 1127.
[543] P-1762: CAR-OTP-2073-0568, at 0576, paras 42, 47, at 0579, para. 66; P-1432: CAR-OTP-2073-0743, at 0746, para. 17, at 0750-0751, paras 54, 59, referring to court documents, CAR-OTP-2050-0187, CAR-OTP-2050-0188, CAR-OTP-2050-0189.
[544] Both witnesses gave evidence concerning an individual with paralysed hands, whom the Chamber understands to be P-0547. However, other than the detainee with the paralysed hands, P-1762 and P-1432 gave sparse details about the other detainees in the underground cell. P-1762 testified that there were [REDACTED], who were put in the underground cell together with P-1762 and P-1432, whose names he did not know and who were taken out of the underground cell and no other person was brought in: P-1762: CAR-OTP-2073-0568, at 0580, para. 71. P-1432 stated that there was already one man in the hole when they (P-1762 and P-1432) were put there and two

inconsistencies regarding the witnesses knowing each other prior to the events,[545] and P-1762 not recognising the court documents dated September 2013 issued against him.[546]

283. The Chamber considers that these inconsistencies were explainable given the conditions of their detention, the passage of time since the events and the severe mistreatment to which they were subjected before being brought to the OCRB. In the Chamber's view, these inconsistencies did not undermine the credibility of their accounts concerning their detention in the underground cell. In this respect, the Chamber also notes that it was in a position to assess their account concerning the conditions in the underground cell after [REDACTED] August 2013 against that provided by P-0547, to whom they both make reference to in their evidence.[547]

284. On the basis of the foregoing, the Chamber concludes that P-1762 and P-1432 were credible and generally reliable witnesses.

v. P-2179

285. P-2179, [REDACTED], testified pursuant to rule 68(3) of the Rules,[548] about the Seleka advance on Bangui, the treatment of the population thereafter, as well as his arrest, detention, and mistreatment at the OCRB (Incident P).[549]

286. The Chamber notes that his evidence regarding the Seleka advance on Bangui and the treatment of the population thereafter, in particular, the targeting of former FACA members, was consistent with other evidence on the record and with that of other similarly situated witnesses. The Chamber considers that P-2179 provided information that was in line with the type and level of knowledge that could be expected from someone in his position.

287. Regarding his alleged detention by the Seleka, P-2179 gave evidence about how the

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other men came in the following days: P-1432: CAR-OTP-2073-0743, at 0750, para. 43. Considering that both P-1762 and P-1432 consistently described being detained with P-0547, the Chamber considers their detention in the underground cell to have taken place after [REDACTED] August 2013, the date on which P-0547 was first detained in the underground cell. Accordingly, given this timeframe, the Chamber considers that P-1762 and P-1432 were detained in the underground cell with P-0547 (Incident O), as well as P-3053 (Incident M).

[545] P-1762: CAR-OTP-2073-0568, at 0576, para. 42; P-1432: CAR-OTP-2073-0743, at 0749, para. 35.

[546] P-1762: CAR-OTP-2073-0568, at 0583, para. 87; P-1762: T-081, pp. 16-17, 22-24, 44-45, referring to order, CAR-OTP-2073-0734.

[547] P-1762: CAR-OTP-2073-0568, at 0579-0580, paras 62-63, 65, at 0580, para. 73; P-1432: CAR-OTP-2073-0743, at 0750, para. 45. *See* below paras 1456-1459.

[548] [REDACTED].

[549] [REDACTED]; P-2179: T-054, T-055.

Seleka took him and [REDACTED] on [REDACTED],[550] from Boy Rabe and took them to the *Section d'Enquete, de Recherche et de Documentation* (the 'SERD') and Camp de Roux, where he was, *inter alia*, tied in the *arbatachar* manner and physically mistreated, before [REDACTED] took him to the OCRB.[551] P-2179 stated that [REDACTED] spoke to 'Taar', who P-2179 later learnt was 'the OCRB commander',[552] and after [REDACTED] left, Tahir ordered the Seleka members at the OCRB to 'lock [P-2179] up in the basement cell, together with [REDACTED]'.[553]

288. As set out in detail below, the Chamber notes that there were issues with P-2179's evidence concerning his detention in the underground cell that affect the credibility of his account.

289. At the outset, the Chamber considers that P-2179 was inconsistent regarding the duration of his detention in the underground cell, stating to the Prosecution investigators that he had been detained there for four days ([REDACTED]),[554] but subsequently testifying in court that it was a period of one week and four days ([REDACTED]).[555] The Chamber also notes that P-2179's account in his prior recorded testimony is that he escaped from the OCRB on a Sunday,[556] which did not align with either period of detention he provided.

290. In addition, the Chamber also notes that there are issues with P-2179's description of his detention in the underground cell at the OCRB. P-2179 gave evidence that the OCRB Seleka made him enter the underground cell, from the outside of the main OCRB

[550] *See* below para. 814.
[551] P-2179: CAR-OTP-2088-2250, at 2254-2266, paras 20-82.
[552] P-2179: CAR-OTP-2088-2250, at 2266, para. 82. The Chamber notes that P-2179 gave evidence about recognising an OCRB Seleka member [REDACTED], who held the rank of a Captain and later told P-2179 that 'Taar' was the OCRB commander. *See also* P-2179: CAR-OTP-2088-2250, at 2267-2268, paras 84, 88. P-2179 also recognised 'Taar' in a photograph shown to him by the Prosecution investigators as the person wearing a light desert type military camouflage uniform and shaking hands with Michel Djotodia: P-2179: CAR-OTP-2088-2250, at 2279, referring to photograph, CAR-OTP-2069-3227. The Chamber notes that other witnesses have identified this person as 'Tahir'. *See* P-2105: T-024, pp. 65-66, referring to photograph, CAR-OTP-2069-3227 ([REDACTED]); addendum to P-2478's prior recorded testimony, CAR-OTP-00000461, at 000003; addendum to P-1429's prior recorded testimony, CAR-OTP-00000590, at 000003.
[553] P-2179 also recalled that, prior to being taken to the underground cell, the OCRB Seleka member brought him to an office inside the main OCRB building and a female police officer registered his name, military ID number and time of arrival in a book: P-2179: CAR-OTP-2088-2250, at 2267, para. 85.
[554] P-2179: CAR-OTP-2088-2250, at 2268, para. 92.
[555] P-2179: T-055, p. 19.
[556] P-2179: CAR-OTP-2088-2250, at 2272, para. 107. [REDACTED].

building, [REDACTED].[557] P-2179 recalled that the OCRB Seleka first [REDACTED] and once he entered the underground cell, the Seleka closed the access [REDACTED].[558] P-2179 testified that, during his detention, the OCRB Seleka allowed him to leave the underground cell every morning to use the toilet and, on two of these occasions, he was allowed to stay in the OCRB courtyard to perform chores for one of the OCRB Seleka members.[559]

291. P-2179 recognised the underground cell in a photograph shown to him by the Prosecution investigators and recognised the wooden board, stating that it covered the 'main access to the basement from the room above' and explaining that [REDACTED].[560] P-2179 also recognised [REDACTED] in a photograph,[561] stating that this [REDACTED], whenever he was allowed to leave the basement.[562]

292. The Chamber considers that the claims of entering the underground cell [REDACTED] multiple times are quite peculiar and unsupported by the evidence it received from other detainees of the underground cell at the time.[563] The Chamber also notes that there is no

[557] P-2179: CAR-OTP-2088-2250, at 2267, paras 87-88. P-2179, shown a photograph of one of the rooms inside the main OCRB building during his witness preparation session, stated that he did not recognise anything [REDACTED]. *See* addendum to P-2179's prior recorded testimony, CAR-OTP-00036103, at 00002, referring to photograph, CAR-OTP-2033-7177.
[558] P-2179: CAR-OTP-2088-2250, at 2267-2268, paras 88-89. The Chamber notes that there are no witnesses speaking of [REDACTED], although P-2400 recalled a hole [REDACTED] being covered from the outside with a big stone, with some daylight being able to enter through the cracks: P-2400: CAR-OTP-2104-0424, at 0433, para. 44.
[559] P-2179: CAR-OTP-2088-2250, at 2268, para. 91.
[560] P-2179: CAR-OTP-2088-2250, at 2278-2279, referring to photographs, CAR-OTP-2033-7729, CAR-OTP-2033-7732, CAR-OTP-2033-7733, CAR-OTP-2033-7739, CAR-OTP-2033-7754. P-2179, commenting on photograph, CAR-OTP-2033-7729, [REDACTED].
[561] [REDACTED]: P-2179: CAR-OTP-2088-2250, at 2267, para. 88. *See also* Defence OCRB Report, CAR-D33-0014-3721, at 3735-3743, referring, *inter alia*, to photographs, CAR-D33-0014-3590, CAR-D33-0014-3591; video of measurement taking, CAR-D33-0014-3624. The Chamber notes that, according to Defence witness P-0036 and as indicated in the Defence's report, [REDACTED]. *See* P-0036: T-139, pp. 53-55. *See also* P-1762 recalled 'about five ventilation holes in the walls of the cell' with daylight entering through them: P-1762: CAR-OTP-2073-0568, at 0579, para. 66. However, the Chamber notes that, when describing how he entered the underground cell, P-1762 said that the Seleka opened the underground cell and 'they pushed us into the hole': P-1762: T-081, p. 12.
[562] P-2179: CAR-OTP-2088-2250, at 2278-2279, referring to photographs, CAR-OTP-2033-7737, CAR-OTP-2033-7746.
[563] The Defence argues that P-2179 is the only witness who claims that he [REDACTED], which is implausible since the findings on the spot show that it was not possible: Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 526, Defence Closing Brief, ICC-01/14-01/21-1039-Conf, para. 526, referring, *inter alia*, to Defence OCRB Report, CAR-D33-0014-3721, at 3741-3743; photograph, CAR-D33-0014-3591; P-0036: T-139, p. 58. It also argues that P-2179's claim that the regular entrance into the underground cell had been closed following the escape of the Yalo brothers in early June 2013 is uncorroborated. *See* P-2179: CAR-OTP-2088-2250, at 2278. The Chamber considers that without knowing [REDACTED] that were in place at the time, it cannot conclude on how [REDACTED] was at the relevant time. In this regard, the Chamber is not convinced by the Defence's assertion, referring to unverifiable claims by the OCRB director [REDACTED]. *See* Defence OCRB Report, CAR-D33-

evidence before it that the 'regular entrance into the underground cell' (which the Chamber understands to be a reference to the opening in the floor covered by a wooden board)[564] was closed in August 2013.

293. On the contrary, the Chamber notes that several witnesses who were detained in the underground cell testified that they entered the cell through the opening in the floor of one of the offices inside the OCRB building in August 2013.[565] None of these witnesses gave evidence of the OCRB Seleka putting people in the underground cell [REDACTED].[566] There is no indication in their evidence that the OCRB Seleka permitted one of the detainees in the underground cell (namely, P-2179) to routinely leave and enter the underground cell multiple times [REDACTED].

294. Furthermore, the Chamber considers that P-2179's evidence concerning his fellow detainees does not align with the accounts of other witnesses underlying Incidents M, O and Q, who claim to have been detained in the underground cell in and around the same time, *i.e.* on or about 18 August 2013. P-2179 testified that when he entered the underground cell, there were [REDACTED] FACA men there, who had been taken prisoner in [REDACTED] by the Seleka and had been tied using the *arbatachar* method during their first week of detention.[567] P-2179 also testified that these [REDACTED] FACA men were never allowed to leave the underground cell, nor receive visitors.[568]

295. None of the witnesses testifying in relation to Incidents M, O, and Q gave evidence about being FACA members themselves or being detained in the underground cell with [REDACTED] FACA men.[569] From these accounts, there is also no support for P-2179's

0014-3721, at 3742. The Chamber rejects the Defence's arguments about the impossibility of [REDACTED] as speculative.

[564] *See* photographs, CAR-OTP-2033-7729, CAR-OTP-2033-7732.

[565] *See, for example*, P-0547: T-013, pp. 7-8; P-2400: CAR-OTP-2104-0424, at 0433, para. 43; P-1762: CAR-OTP-2073-0568, at 0579, para. 66; P-1762: T-081, p. 12; P-1432: CAR-OTP-2073-0743, at 0750, paras 41, 43.

[566] The Chamber notes that the Defence argues that this would have been impossible. *See* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 526, Defence Closing Brief, ICC-01/14-01/21-1039-Conf, para. 526, referring to Defence OCRB Report, CAR-D33-0014-3721, at 3741-3743; photograph, CAR-D33-0014-3591, P-0036: T-139, p. 58.

[567] P-2179: CAR-OTP-2088-2250, at 2268, paras 89-90.

[568] P-2179: CAR-OTP-2088-2250, at 2268, para. 91.

[569] The Chamber notes that P-0547 gave evidence about being detained in the cell in the OCRB courtyard with a young person called '[REDACTED]' who said he was the son of [REDACTED]: P-0547: T-016, pp. 16-17. *See also* Prosecution Closing Brief, ICC-01/14-01/21-1027-Red, para. 210, Prosecution Closing Brief, ICC-01/14-01/21-1027-Conf, para. 210. The Chamber notes that P-2179's last name is '[REDACTED]'. P-2179 stated that he was never detained in the cell in the OCRB courtyard and always remained in the underground cell for the entire duration of his detention: P-2179: CAR-OTP-2088-2250, at 2269, para. 97. There is no indication in

claim that all purported [REDACTED] FACA detainees remained in the underground cell the entire time and were not let out at any point,[570] as well as the claims that these detainees were not allowed to receive any visitors.[571] Indeed, the accounts of other detainees suggest that occasionally a few detainees, who were all civilians, were let out of the underground cell for questioning, beatings and to meet their family members.[572]

296. In further assessing the credibility of his account, the Chamber notes that P-2179 did not recognise [REDACTED][573] in photographs shown to him by the Prosecution investigators.[574] Furthermore, while P-2179 gave evidence about being questioned by Nouradine Adam on one occasion,[575] he was unable to identify him in photographs shown to him by the Prosecution investigators.[576]

297. On the basis of the foregoing, the Chamber considers that the nature and extent of the

P-0547's evidence that a person called '[REDACTED]' was detained with him in the underground cell. There is also no indication whether there was another person with the same last name at the OCRB. Based on these considerations, the Chamber was unable to conclude whether P-0547's reference to the person called '[REDACTED]' was a reference to P-2179.

[570] P-2179: CAR-OTP-2088-2250, at 2268, para. 91.

[571] P-2179: CAR-OTP-2088-2250, at 2268, para. 92.

[572] P-3064 and P-3056 testified about P-3056 being taken out of the underground cell and physically mistreated on the first night of their detention in the underground cell, falling on 19 August 2013. *See* below para. 1402. P-0547 gave evidence about being lifted out of the underground cell for interrogation and beatings, massages on his limbs and meetings with [REDACTED] in the OCRB compound, and being brought back to the underground cell thereafter. P-0547 testified that, at some point, the Seleka allowed him and another detainee outside to take medicines: P-0547: T-013, pp. 4-14. *See* below para. 1468-1469. P-2400 and P-2337 gave evidence about P-2400 being able to meet [REDACTED] briefly during his detention in the underground cell when Mr Said was not present. *See* below para.1542.

[573] P-2179: CAR-OTP-2088-2250, at 2264-2268, paras 73, 83, 85. The Chamber notes that P-2179 stated that he had 'never seen the face of [REDACTED]' as he did not see him removing the *kadamoul* covering his head and face: P-2179: CAR-OTP-2088-2250, at 2262, para. 64. Given this explanation, the Chamber considers that P-2179's inability to identify [REDACTED] in photographs, in and of itself, did not impact on his credibility generally.

[574] P-2179: CAR-OTP-2088-2250, at 2278, referring to photograph, CAR-OTP-2001-7581 (stating he did not know anybody in this photograph). [REDACTED]. There are no references to Mr Said in P-2179's evidence and he did not recognise him in photographs depicting Mr Said shown to P-2179 by the Prosecution investigators: P-2179: CAR-OTP-2088-2250, at 2279-2281, referring to photographs, CAR-OTP-2069-3226, showing Mr Said to the far left of the photograph in an army camouflage uniform, CAR-OTP-2069-3227, showing Mr Said in the background between the two persons shaking hands, and CAR-OTP-2088-2298, showing only Mr Said. The photograph showing only Mr Said, CAR-OTP-2088-2298, has not been formally submitted into evidence, but the Chamber notes that duplicates of this photograph have been (CAR-OTP-2081-0067 and CAR-OTP-2094-2006). *See also* above para. 6.

[575] P-2179: CAR-OTP-2088-2250, at 2271-2272, 2274, paras 102-105, 118.

[576] P-2179: CAR-OTP-2088-2250, at 2276, 2278, referring to photographs, CAR-OTP-2069-2343 (recognised 'the Seleka General, with a green "kadamoul" wrapped around his neck, whose name I do not know', noting that the photograph was taken when Michel Djotodia [REDACTED]), CAR-OTP-2069-1347 (did not recognise anybody), CAR-OTP-2069-1409 (recognised the 'Seleka General', holding several mobile phones in his hand in the photograph, as the same person who 'was with Djotodia [REDACTED]' in another photograph shown to him). P-1967 recognised Nouradine Adam in photographs, CAR-OTP-2069-1347 (IMG 0365), CAR-OTP-2069-1409 (P9170012). *See* P-1967: CAR-OTP-2069-0498, at 0561-0562.

issues identified in P-2179's testimony fundamentally undermine his credibility regarding his detention by the Seleka. Accordingly, the Chamber does not rely on P-2179's testimony for the purposes of Incident P. The Chamber has assessed the reliability of the remainder of his evidence on a case-by-case basis in light of other evidence before it.

3. Defence witnesses[577]

a) P-0015, P-0022 and P-2926

298. The Chamber notes that three of the Defence witnesses (P-0015, P-0022 and P-2926) can broadly be categorised as academics and journalists who wrote about CAR. Annyssa Bellal, P-0015, is a Swiss academic,[578] who wrote, *inter alia*, an academic paper on the existence of an armed conflict in CAR in 2012 and 2013.[579] Thomas Cantaloube, P-0022, is a French former journalist[580] who was a reporter for Mediapart in 2013,[581] and wrote a number of articles on CAR in 2013.[582] P-2926 is a [REDACTED] researcher who testified for the Prosecution in the *Yekatom and Ngaïssona* case[583] and the transcripts of his testimony, as well as his report, were introduced into evidence by the Defence in the present case. These witnesses testified, *inter alia*, as to the existence of an armed conflict in CAR during the period relevant to the charges.

299. In respect of Annyssa Bellal and Thomas Cantaloube, who testified fully *viva voce* before the Chamber, the Chamber found both witnesses to be credible and forthcoming. They were clear as to the limits of their knowledge and freely indicated when they did not possess particular information.[584] In respect of P-2926, although he did not testify *viva voce* before the Chamber and his evidence was admitted pursuant to rule 68(2)(b) of the Rules,[585] the Chamber notes that he testified under oath before Trial Chamber V and provided clarifications and further information when asked by the parties, participants

[577] Although the witnesses set out in the following section are Defence witnesses, the pseudonyms that were assigned begin with P rather than D.
[578] P-0015: T-135, pp. 6-7.
[579] The War Report, CAR-D33-0014-1617; The War Report, CAR-D33-0014-1823.
[580] P-0022: T-134, pp. 6-7.
[581] P-0022: T-134, p. 7.
[582] Newspaper articles, CAR-D33-0014-1582, CAR-D33-0014-1588, CAR-D33-0014-1597, CAR-D33-0014-1607, CAR-D33-0014-1611.
[583] P-2926: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-031; P-2926: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-032.
[584] *See, for, example*, P-0022: T-134, p. 64; P-0015: T-136, pp. 3-6.
[585] First Defence Rule 68(2)(b) Decision, ICC-01/14-01/21-957-Red, paras 23-26.

and chamber in those proceedings.[586]

300. The above notwithstanding, the Chamber observes that these witnesses generally had a limited basis of knowledge regarding the events under consideration in the present case. While some of the evidence provided by Annyssa Bellal, Thomas Cantaloube and P-2926 is consistent with other evidence on the record, the information tends to be generic and lacking in specificity.

301. In respect of Annyssa Bellal, the Chamber notes that her report is primarily legal in nature and contains little factual evidence. In this regard, the Chamber encouraged the Defence during its examination of Annyssa Bellal to focus on eliciting facts from the witness rather than legal opinion.[587] In respect of the factual basis relied upon in the report, the Chamber notes that it is primarily based on UN and NGO reports, as well as newspaper articles and discussions with individuals at the [REDACTED].[588] Annyssa Bellal was not physically present in CAR and was unable to add independent evidence in respect of events in that country.

302. In respect of Thomas Cantaloube, he worked primarily in France, only became interested in CAR in 2013,[589] and visited CAR once between 29 October and 12 November 2013.[590] Furthermore, although Cantaloube clearly explained the methodology for the preparation of his media articles on CAR, the Chamber notes that he relied primarily on information provided by others and secondary sources, such as other newspaper articles and NGO reports.[591] In respect of his visit to CAR, Cantaloube indicated that his taxi driver became his 'fixer',[592] and aside from naming one specific individual whom he interviewed,[593] he did not provide the details of who else he spoke to whilst in CAR.[594]

303. Similarly, the Chamber observes that the sources relied upon by P-2926 were not always

[586] *See, for example*, P-2926: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-031, p. 43.
[587] *See* P-0015: T-135, p. 21.
[588] P-0015: T-135, pp. 13-15.
[589] P-0022: T-134, pp. 7-8.
[590] P-0022: T-134, pp. 26-27.
[591] *See, for example*, P-0022: T-134, pp. 9-10, 25.
[592] P-0022: T-134, p. 27, 31.
[593] P-0022: T-134, pp. 37-39.
[594] P-0022: T-134, pp. 28, 30, 31, 35.

clear.[595] In this regard, the Chamber observes that in his report, which was introduced into evidence, P-2926 frequently cites newspaper articles[596] and, on occasion, articles he himself drafted.[597]

304. On the basis of the foregoing, the Chamber considers that the probative value of the evidence provided by Annyssa Bellal, Thomas Cantaloube and P-2926 in respect of events under consideration in the present case is low.[598] Accordingly, although the Chamber considers Thomas Cantaloube, Annyssa Bellal and P-2926 to be credible witnesses, it has assessed the reliability of their evidence on a case-by-case basis in light of other evidence before it.

b) P-0035 and P-0037

305. P-0035 and P-0037 testified pursuant to rule 68(2)(b) of the Rules and their statements were taken under oath by the [REDACTED] following a request for cooperation by the Defence.[599] The Chamber notes that both witnesses were French citizens who were present in CAR for part of the temporal period covering the charges. P-0035 was appointed as the [REDACTED][600] and P-0037 was a [REDACTED].[601] Both witnesses provided background and contextual information relating, *inter alia*, to the role of the French in CAR,[602] the composition of the Seleka,[603] the Seleka's advance and takeover of Bangui,[604] the transitional government after March 2013,[605] disarmament, demobilisation and reintegration (the 'DDR') process and cantonment efforts by Djotodia[606] and the formation of the Anti-Balaka.[607]

306. While the Chamber considers P-0035 and P-0037 to be generally credible witnesses, it

[595] The Chamber notes that on one occasion P-2926 based his answer on rumours he heard (*see, for example*, P-2926: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-031, p. 67), and on other occasions did not state how he knew something (*see, for example*, P-2926: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-031, p. 75; P-2926: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-032, p. 73).
[596] *See, for example*, report of P-2926 for the Prosecution, CAR-OTP-2127-4289, at 4308, n. 79, at 4310, n. 86.
[597] *See, for example*, report of P-2926 for the Prosecution, CAR-OTP-2127-4289, at 4315, n. 99, at 4318, n. 113.
[598] *Contra* Defence Closing Brief, ICC-01/14-01/21-1039-Red, paras 157-165.
[599] *See* P-0035: CAR-D33-0015-4474, at 4474; P-0037: CAR-D33-0015-4492, at 4492.
[600] *See* P-0035: CAR-D33-0015-4474, at 4475.
[601] *See* P-0037: CAR-D33-0015-4492, at 4493, 4497.
[602] P-0035: CAR-D33-0015-4474, at 4479-4480; P-0037: CAR-D33-0015-4492, at 4495, 4496.
[603] P-0035: CAR-D33-0015-4474, at 4478-4479; P-0037: CAR-D33-0015-4492, at 4494.
[604] P-0035: CAR-D33-0015-4474, at 4481-4483; P-0037: CAR-D33-0015-4492, at 4494-4495.
[605] P-0035: CAR-D33-0015-4474, at 4485-4486; P-0037: CAR-D33-0015-4492, at 4497-4498.
[606] P-0035: CAR-D33-0015-4474, at 4483-4485; P-0037: CAR-D33-0015-4492, at 4496-4497.
[607] P-0035: CAR-D33-0015-4474, at 4486-4487; P-0037: CAR-D33-0015-4492, at 4499-4500.

notes that both were measured and cautious in the information that they provided and that much of the evidence they provided was generic and lacking in specificity. The Chamber has concerns regarding the basis and limits of knowledge of both witnesses in relation to a number of aspects of their evidence, for example, in relation to the composition of the Seleka and the formation of the Anti-Balaka. The Chamber notes that both witnesses responded on a number of occasions that they did not know when asked specific questions. In respect of P-0035, the Chamber notes that he had limited knowledge in relation to the coordination of the Anti-Balaka prior to 5 December 2013 and speculated as to how information was being passed between certain groups.[608] Similarly, P-0037 stated that he had no formal contact with the Seleka when asked how the military police functioned.[609]

307. The Chamber considers this to be understandable given both witnesses' respective positions, in that they were somewhat removed from events happening at the time. For example, the Chamber notes that P-0037 indicated that he had no formal contact with the Seleka and no cooperation with the transitional government.[610] The Chamber also notes that he appears to have been [REDACTED].[611] In respect of P-0035, the Chamber notes that, when asked about the anti-zaraguinas, he stated that he only knew what the [REDACTED] told him,[612] and that he had no information when the Seleka arrived in Bangui and was not able to get any information, noting that he did not have a phone for 10 days.[613]

308. On the basis of the foregoing, although the Chamber finds P-0035 and P-0037 to be credible, it will approach their testimony with caution given the lack of clarity of their bases of knowledge in relation to particular issues and has assessed the reliability of their evidence on a case-by-case basis in light of other evidence before it.

c) P-0036

309. Emma Conty, a legal assistant on the Defence team[614] who participated in an

[608] P-0035: CAR-D33-0015-4474, at 4487.
[609] P-0037: CAR-D33-0015-4492, at 4494-4495.
[610] P-0037: CAR-D33-0015-4492, at 4494-4495, 4497-4498.
[611] P-0037: CAR-D33-0015-4492, at 4493, 4495.
[612] P-0035: CAR-D33-0015-4474, at 4477.
[613] P-0035: CAR-D33-0015-4474, at 4481.
[614] P-0036: T-139, p. 8.

investigative mission to the OCRB and the *Tribunal de Grande Instance* in June 2025,[615] testified fully *viva voce* about this mission, her reports and their associated material.

310. At the outset, while the Chamber has no doubt as to Emma Conty's credibility, the Chamber must take into account the fact that she is a lawyer who was a member of Mr Said's defence team at the time of the mission as well as during her testimony.[616] The Chamber notes that Emma Conty had limited experience in carrying out investigative missions and lacked formal qualifications in this regard.[617]

311. Emma Conty produced two reports from her mission to Bangui in June 2025, one which relates to the collection of two documents from the *Tribunal de Grande Instance* (CAR-D33-0014-3677)[618] and one which relates to a topographical survey of the OCRB (CAR-D33-0014-3721), in which, *inter alia*, a number of measurements were taken.

312. The Chamber notes that the Prosecution had no objection to the introduction of the report on the collection of documents from the *Tribunal de Grande Instance* (CAR-D33-0014-3677), having previously introduced sections of the same documents into evidence itself.[619] The Chamber notes that the copies of the documents taken by Emma Conty frequently provide a clearer image of the full pages than the copies taken by the Prosecution investigators and the Chamber has relied on them accordingly.

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[615] P-0036: T-139, pp. 11-12; Defence OCRB Report, CAR-D33-0014-3721.
[616] As previously indicated, the Chamber considers that the practice of Defence lawyers testifying on behalf of the accused is suboptimal, particularly in light of ethical considerations regarding conflicts of interest and confidentiality, and should only be allowed in very limited circumstances. In this regard, the Chamber recalls that it issued a number of decisions on the issue of Defence lawyers, including counsel, testifying on behalf of the accused: Decision on the Prosecution's Request to Exclude Defence Counsel from the Defence's List of Witnesses and Evidence, ICC-01/14-01/21-935; Decision on Defence Bar Table Applications, ICC-01/14-01/21-1011-Red, paras 83-93. In allowing Ms Conty to testify, the Chamber took note of the fact that she: (i) had not examined any witnesses in the case; (ii) had not been in the courtroom during the hearing of any Prosecution witnesses; (iii) her anticipated evidence was relevant to matters in issue; (iv) the Prosecution did not object to her testifying; and (v) Mr Said gave his informed consent to her testifying. *See* email from the Chamber to the parties and participants, dated 24 July 2025, at 17:07; email from the Chamber to the Defence, dated 22 July 2025, at 18:24.
[617] P-0036: T-139, p. 33. The Chamber notes, at this juncture, that it repeatedly gave direction to the Defence regarding its investigation, noting that the Court's Legal Aid Policy allocates resources to cover the costs of, *inter alia*, fees of the professional investigators to conduct investigative work in the field. *See* Decision on the Prosecution's Request to Exclude Defence Counsel from the Defence's List of Witnesses and Evidence, ICC-01/14-01/21-935, para. 52; Decision on Defence Bar Table Applications, ICC-01/14-01/21-1011-Red, para. 92.
[618] Records of court hearings 2012-2013, divided into a number of separate documents, CAR-D33-0015-3984, CAR-D33-0015-4107, CAR-D33-0015-4230, CAR-D33-0015-4353; records of court hearings 2013-2014, divided into a number of separate documents, CAR-D33-0015-3467, CAR-D33-0015-3597, CAR-D33-0015-3727, CAR-D33-0015-3857.
[619] Records of court hearings 2012-2013, CAR-OTP-2136-0699, at 0699; records of court hearings 2013-2014, CAR-OTP-2136-0699, at 0911.

313. In respect of the report on the topographical survey of the OCRB (CAR-D33-0014-3721), the Chamber notes, as acknowledged by Emma Conty, that it contains no section on methodology or the instructions received from the Defence counsel in respect of the mission.[620] In this regard, the Chamber observes that the lack of methodology was apparent from a number of the videos of Emma Conty taking measurements during the mission, and her own acknowledgment that taking certain measurements was difficult.[621] The Chamber also notes that information in the report contains a certain level of interpretation favourable to Defence arguments.[622]

314. Furthermore, as highlighted by the Prosecution during its examination of Emma Conty, her report CAR-D33-0014-3721 contains a number of mistakes, with measurements recorded in photographs and videos taken during the mission not corresponding with the measurements recorded in the report and ERNs missing.[623] In this regard, the Chamber notes that a number of the videos showing measurements being taken do not depict the measurements themselves, which greatly undermine their probative value.

315. On the basis of the foregoing, the Chamber treats Emma Conty's testimony and associated report on the OCRB (CAR-D33-0014-3721) with caution and relies on it only to the extent that the associated videos and photographs clearly depict the measurements and how they were taken. The Chamber also relies on the documents collected at the *Tribunal de Grande Instance*.

d) P-0405

316. P-0405, the only Central African witness introduced by the Defence, is an Anti-Balaka insider who was originally interviewed by the Prosecution and whose interview transcripts were introduced by the Defence pursuant to rule 68(2)(b) of the Rules, without objection from the Prosecution.[624]

317. In respect of the substance of his testimony, P-0405 testified that he remained at home in

[620] P-0036: T-139, p. 34.
[621] P-0036: T-139, pp. 19-20. *See*, *for example*, videos of measurement taking, CAR-D33-0014-3622, CAR-D33-0014-3620, CAR-D33-0014-3625.
[622] P-0036: T-139, pp. 34, 48 *et seq*., referring to Defence OCRB Report, CAR-D33-0014-3721, at 3737 (referring to P-3112's OCRB Report, CAR-OTP-2062-0743, at 0846), 3743.
[623] *See* P-0036: T-139, pp. 36-39; video of measurement taking, CAR-D33-0014-3560; Defence OCRB Report, CAR-D33-0014-3721 at 3740, 3745; photos of measurements, CAR-D33-0014-3640 and CAR-D33-0014-3641. *See also* P-0036: T-139, p. 44.
[624] Prosecution Response to Defence First Rule 68(2)(b) Request, ICC-01/14-01/21-938-Red, para. 27.

hiding in Bangui between April and November 2013 and had limited information to offer regarding events during this time.[625] He joined the Anti-Balaka in November 2013[626] and provided evidence regarding the 5 December attack on Bangui, testifying that he participated in the attack led on Camp Kassai.[627] The Chamber notes that this evidence is broadly consistent with that of other witnesses regarding the 5 December attack on Bangui[628] and considers his evidence to be credible and reliable.

318. On the basis of the foregoing, the Chamber concludes that P-0405 was a credible and generally reliable witness, albeit he had limited information to offer in relation to events prior to November 2013.

4. Documentary evidence

a) UN reports, NGO reports and press articles

319. Both parties submitted into evidence UN and NGO reports, as well as academic and press articles and often relied on them to establish the truth of their contents. The Chamber has considered the information provided in these documents on a case-by-case basis. However, as a general rule, the Chamber has approached the content of these reports and articles with caution.

320. Taking into account the purposes for which such reports and articles are prepared and information available regarding the methodology used in the collection of information, the Chamber has generally not relied on indirect information provided therein. The Chamber accorded more probative value to the direct information provided in the reports, for example, when the authors of the reports personally visited certain sites and reported on their personal observations. The Chamber considered contemporaneous UN reports as having probative value in respect of the position of and steps taken by the international community regarding the situation in CAR at the time.

321. The Chamber also relied on press articles in order to ascertain the dates of particular events (in the sense that publication of an article about a particular event shows that the event must have occurred before the publication), to infer that certain information was

[625] P-0405: CAR-OTP-2118-6171, at 6185-6186; *see also* P-0405: CAR-OTP-2107-4558, at 4560.
[626] P-0405: CAR-OTP-2107-4759, at 4770.
[627] P-0405: CAR-OTP-2107-4580, at 4595-4598.
[628] *See* below paras 514-519.

publicly available at a particular time, and the content of press releases issued by organisations on a case-by-case basis.

b) Presidential and executive orders

322. The Chamber received into evidence a number of presidential and executive orders that were relied on by both parties in their submissions and were commented on by multiple witnesses. In terms of the weight the Chamber accorded to this evidence, it observes that there were indications that the documents contained errors, and in certain instances,[629] there were indications that the persons appointed did not actually take up the positions to which they were appointed. In such cases, the Chamber weighed all relevant evidence in assessing the issues and did not find the existence of an official legal appointment determinative of the issue as such.

c) Seleka ID cards

323. The Chamber received into evidence copies of identity cards issued by the Seleka.[630] The Chamber notes that these cards contained the same basic information and layout but that the spellings contained therein (including in references to CAR and Nouradine Adam) were frequently incorrect. Noting that they were issued at different times to different individuals and that they were entered into evidence through witnesses whom the Chamber found to be credible and reliable, the Chamber does not consider that these variations in the spellings and appearance of the identity cards cast doubt on their authenticity.

III. CONTEXTUAL ELEMENTS

A. CONTEXTUAL ELEMENTS OF WAR CRIMES

1. Applicable law

a) The existence of a non-international armed conflict

324. The war crimes charged in this case exclusively relate to article 8(2)(c) of the Statute, which concerns an armed conflict not of an international character and the serious violations of common article 3 to the four Geneva Conventions of 12 August 1949.[631]

[629] P-0787: T-037, pp. 60-69, referring to presidential order, CAR-OTP-2004-0814, at 0823, 0825, 0827.
[630] [REDACTED].
[631] Article 8(2)(c) of the Statute.

325. An armed conflict not of an international character exists when there is protracted armed violence between governmental authorities and organised armed groups or between such groups within the territory of a state.[632] According to paragraphs (d) and (f) of article 8(2) of the Statute, such conflicts must be distinguished from 'situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence or other acts of similar nature'.[633]

326. With respect to the evaluation of what qualifies as 'organized armed groups',[634] chambers have previously considered the following factors: (i) the existence of a command structure, the existence of headquarters, the issuing of political statements, and the use of official spokespersons; (ii) the military (operational) capacity of the armed groups, which may be shown by, for example, the ability to define a unified military strategy, the use of military tactics, the ability to carry out (large-scale or coordinated) operations, the control of territory, and having a territorial division into zones of responsibility; (iii) the logistical capacity of the armed groups, indicated, among others, by the existence of a supply chain for military equipment, as well as by the groups' ability to move troops around and to recruit and train personnel; (iv) the existence of an internal disciplinary system and the ability to implement international humanitarian law; and (v) the groups' ability to speak with one voice, indicated, for example, by the capacity of the leadership to act on behalf of its members in political negotiations and to conclude agreements, such as cease-fire or peace agreements.[635] None of these factors are individually determinative and armed groups may be sufficiently organised if only some of them are present.[636]

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[632] *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 682; *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 3766; *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 1095; *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 2683; *Ntaganda* Trial Judgment, ICC-01/04-02/06-2359, para. 701; *Al Mahdi* Trial Judgment, para. 17; *Katanga* Trial Judgment, ICC-01/04-01/07-3436-tENG, paras 1183-1184; *Lubanga* Trial Judgment, ICC-01/04-01/06-2842, paras 531-538.
[633] *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 682; *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 3766; *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 1095; *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 2683; *Ntaganda* Trial Judgment, ICC-01/04-02/06-2359, para. 703; *Katanga* Trial Judgment, ICC-01/04-01/07-3436-tENG, para. 1183.
[634] Article 8(2)(f) of the Statute.
[635] *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 683; *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 3768; *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 1096; *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 2685; *Ntaganda* Trial Judgment, ICC-01/04-02/06-2359, para. 704; *Katanga* Trial Judgment, ICC-01/04-01/07-3436-tENG, para. 1186; *Lubanga* Trial Judgment, ICC-01/04-01/06-2842, para. 537.
[636] *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 1096; *Ntaganda* Trial Judgment, ICC-01/04-02/06-2359, para. 704; *Katanga* Trial Judgment, ICC-01/04-01/07-3436-tENG, para. 1186; *Lubanga* Trial Judgment, ICC-01/04-01/06-2842, para. 537.

327. When evaluating whether there is protracted armed violence, chambers have considered whether the intensity of the hostilities reached the requisite threshold through an examination of the following factors: (i) the seriousness and frequency of attacks and armed clashes; (ii) the spread of clashes over territory and the group's ability to control territory over a period of time; (iii) whether any ceasefire orders had been issued or agreed to; (iv) the type and number of armed forces deployed, including any involvement of the government; (v) the type of weapons used; (vi) whether the situation had attracted the attention of the UN Security Council, or involvement of other international organisations; (vii) whether those fighting considered themselves bound by international humanitarian law and (viii) the effects of the violence on the civilian population, including the extent to which civilians left the relevant area, the extent of destruction, and the number of persons killed.[637] Exercise of control over a part of the territory is not required for a group to meet the minimum level of organisation, but in the absence of active hostilities, it may be a determinative factor in assessing whether the intensity threshold is fulfilled.[638] It is also not required that the violence be continuous and uninterrupted; the Chamber need only find that the violence goes beyond isolated or sporadic acts.[639]

328. Once an armed conflict has been initiated, international humanitarian law applies. The Chamber notes previous jurisprudence by Trial Chambers at the ICC following jurisprudence at other courts and tribunals, which recognised the following standard for determining the conclusion of an armed conflict:

> International humanitarian law applies from the initiation of such armed conflicts and extends beyond the cessation of hostilities until a general conclusion of peace is reached; or, in the case of internal conflicts, a peaceful settlement is achieved. Until that moment, international humanitarian law continues to apply in the whole territory

[637] *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 683; *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 3767; *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 1097; *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 2684; *Ntaganda* Trial Judgment, ICC-01/04-02/06-2359, para. 716; *Katanga* Trial Judgment, ICC-01/04-01/07-3436-tENG, para. 1187; *Lubanga* Trial Judgment, ICC-01/04-01/06-2842, para. 538.
[638] *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 3767; *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 1097; *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 2684; *Ntaganda* Trial Judgment, ICC-01/04-02/06-2359, para. 717. *See also* *Katanga* Trial Judgment, ICC-01/04-01/07-3436-tENG, para. 1186.
[639] *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 683; *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 3767; *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 1097; *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 2684; *Bemba* Trial Judgment, ICC-01/05-01/08-3343, para. 140.

> of the warring States or, in the case of internal conflicts, the whole territory under the control of a party, whether or not actual combat takes place there.[640]

329. The Chamber recalls that while these chambers were assessing the applicability of international humanitarian law during specific armed conflicts, the question of whether those armed conflicts had ended was not a central issue. Although they referred to the notion of 'peaceful settlement', they did not expand on the underlying criteria that a Trial Chamber must consider when determining if, and when, an armed conflict not of an international character comes to an end.

330. The Chamber considers that, particularly in the context of contemporary armed conflicts not of an international character, the ordinary meaning of the term 'peaceful settlement' may not adequately capture the full range of circumstances in which such conflicts come to an end. In this regard, the Chamber underlines that an armed conflict not of an international character may end in ways that are neither peaceful, nor as a result of a settlement between the parties to the conflict.

331. In this regard, it is true that a 'peaceful settlement' can be achieved when there is a lasting cessation of armed confrontations without a real risk of resumption. However, an armed conflict not of an international character may also end with events that are not 'peaceful' for instance, with the termination of a party to the conflict, by way of being completely obliterated, defeated, demobilised, or dissolved in any other way, even if there are isolated or sporadic acts of violence by remnants of this party.[641]

332. Additionally, a ceasefire, armistice, or a peace agreement signalling a 'settlement' may be an indication that an armed conflict has ceased. However, armed confrontations may well extend beyond such formal acts or pronouncements. Therefore, in such situations, formal acts or pronouncements of peace are not determinative of whether an armed conflict has ceased.[642]

333. Similarly, temporary lulls in hostilities or temporary changes in the composition or level

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[640] *Katanga* Trial Judgment, ICC-01/04-01/07-3436-tENG, para. 1173; *Lubanga* Trial Judgment, ICC-01/04-01/06-2842, para. 533, referring to *Tadić* Jurisdiction Decision, para. 70. *See* jurisprudence from the Special Court for Sierra Leone: *Taylor* Trial Judgment, para. 565; *Fofana et al.* Trial Judgment, para. 128; ICRC Commentary on Third Geneva Convention, paras 492-494.
[641] ICRC Commentary on Third Geneva Convention, para. 523.
[642] *See also* ICRC Commentary on Third Geneva Convention, paras 523-524, 526. *See also* *Bemba* Trial Judgment, ICC-01/05-01/08-3343, para. 141.

of organisation of armed groups may not be sufficient, without more, to ascertain that an armed conflict not of an international character has ceased.[643] In this regard, the Chamber agrees with the ICRC that it is 'impossible to state in the abstract how much time without armed confrontations needs to pass to be able to conclude with an acceptable degree of certainty that the situation has stabilized and equates to a peaceful settlement'.[644]

334. The Chamber recalls that an ICTY Trial Chamber rightly cautioned, '[o]nce the law of armed conflict has become applicable, one should not lightly conclude that its applicability ceases' as 'a revolving door between applicability and non-applicability' would lead 'to a considerable degree of legal uncertainty and confusion'.[645]

335. Having regard to these considerations, the Chamber is not guided by the ordinary meaning of the term 'peaceful settlement' and has taken into account the broad manner in which it has been interpreted, including by the ICRC.[646] Accordingly, for the purposes of the present case, the Chamber has assessed, *inter alia*, the continued existence of the parties to the conflict, the nature of armed confrontations between them, the level of military preparations (if any), a party's ability to carry out military operations, the duration of any period without armed confrontations, and the general security situation in CAR at the time.[647]

336. For the avoidance of doubt, the Chamber considers that, in assessing whether a peaceful

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[643] ICRC Commentary on Third Geneva Convention, paras 526-530. *See also* *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 3767; *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 1097; *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 2684; *Taylor* Trial Judgment, para. 571; *Haradinaj et al.* Trial Judgment, para. 100; *Brima et al.* Trial Judgment, in which the Special Court for Sierra Leone found that a non-international armed conflict existed in Sierra Leone between March 1991 until January 2002 (para. 249), even though there were changes in the composition of the relevant armed groups throughout the conflict. Specifically, the chamber found that an armed conflict continued when the Armed Forces Revolutionary Council (the 'AFRC') and the troops of the Revolutionary United Front (the 'RUF') retreated from Freetown after an attack by the Civil Defence Forces (the Kamajors) and ECOMOG forces. *See* *Fofana et al.* Trial Judgment, paras 80-81. The chamber found that the AFRC and RUF's retreat was 'uncoordinated and without any semblance of military discipline' and that after the 'chaotic retreat from Freetown, the AFRC and RUF troops gathered in Masiaka but organisation and control remained minimal' (*Brima et al.* Trial Judgment, paras 176-177). Similarly, in the *Fofana et al.* Trial Judgment, which pertained to crimes committed by members of the Civil Defence Forces, the accused were convicted of war crimes that took place during what the *Brima et al.* Trial Judgment referred to as this period of disorganisation that followed the retreat of the AFRC and RUF in February 1998: *Fofana et al.* Trial Judgment, para. 438 *et seq*.

[644] ICRC Commentary on Third Geneva Convention, para. 526.

[645] *Gotovina et al.* Trial Judgment, para. 1694. *See also* ICRC Commentary on Third Geneva Convention, paras 527, 530; ICRC, *International humanitarian law and the challenges of contemporary armed conflicts*, p. 10.

[646] ICRC Commentary on Third Geneva Convention, paras 523-530.

[647] ICRC Commentary on Third Geneva Convention, paras 523-530; ICRC, *International humanitarian law and the challenges of contemporary armed conflicts*, p. 10. *See also* *Lubanga* Trial Judgment, ICC-01/04-01/06-2842, para. 548.

settlement has been achieved, the Chamber does *not* need to be satisfied of the existence of hostilities or organisation of the armed groups at the same level as is necessary to establish the existence of an armed conflict not of an international character. In other words, hostilities need not have continued at the same level as in the beginning of the armed conflict.

b) Nexus requirement and knowledge of perpetrator

337. The Elements of Crimes relevant to war crimes require that the charged criminal acts took place in the context of and were associated with an armed conflict. The Chamber agrees with past jurisprudence, which held that:

> the perpetrator's conduct must have been closely linked to the hostilities taking place in any part of the territories controlled by the parties to the conflict. The armed conflict alone need not be considered to be the root of the conduct […] and the conduct need not have taken place in the midst of battle. Nonetheless, the armed conflict must play a major part in the perpetrator's decision, in his or her ability to commit the crime or the manner in which the crime was ultimately committed.[648] The perpetrator's conduct need not take place as part of hostilities, meaning that the nexus requirement could still be satisfied for crimes temporally or geographically remote from the actual fighting.[649]

338. The Appeals Chamber has considered the following factors for the purposes of assessing whether a particular act bears a sufficient nexus to the armed conflict:

> the fact that the perpetrator is a combatant; the fact that the victim is a non-combatant; the fact that the victim is a member of the opposing party; the fact that the act may be said to serve the ultimate goal of a military campaign; and the fact that the crime is committed as part of or in the context of the perpetrator's official duties.[650]

339. In addition, it has been held that, to show a nexus between the crime and the armed conflict, it is not necessary that the crime be part of a policy or of a practice officially endorsed or tolerated by one of the parties to the conflict, or that the act be in furtherance

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[648] *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 685; *Katanga* Trial Judgment, ICC-01/04-01/07-3436-tENG, para. 1176. *See also* *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 3780; *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 1099; *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 2689; *Ntaganda* Trial Judgment, ICC-01/04-02/06-2359, para. 731.

[649] *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 3780; *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 1099; *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 2689; *Ntaganda* Trial Judgment, ICC-01/04-02/06-2359, para. 731.

[650] *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 686; *Ntaganda* Jurisdiction Judgment, ICC-01/04-02/06-1962, para. 68, referring to *Kunarac et al.* Appeal Judgment, para. 59. *See also* *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 3780; *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 1100; *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 2689; *Ntaganda* Trial Judgment, ICC-01/04-02/06-2359, para. 732.

of a policy associated with the conduct of war or in the interest of a party to the conflict.[651]

340. According to the Elements of Crimes, a further element common to each of the individual war crimes is that 'the perpetrator was aware of factual circumstances that established the existence of an armed conflict'.[652]

2. Introduction

341. The Prosecution alleges that, from at least late 2012 until at least 10 January 2014, there was an armed conflict in CAR between the 'Seleka' and a group of forces, which the Prosecution calls the 'pro-Bozizé forces', based on their alleged alignment with François Bozizé, who was President of CAR from 2003.[653] The Chamber notes that the term 'pro-Bozizé forces' adopted by the Prosecution is not used by witnesses in the case and does not appear in the evidence set out below. While the Chamber ascribes no factual or legal significance to the use of the phrase the 'pro-Bozizé forces', it considers it a useful descriptor and thus adopts it below for the purposes of engaging with the parties' arguments and in considering the allegations presented by the Prosecution.

342. According to the Prosecution, the armed conflict began in late 2012, when the Seleka, 'a coalition of previously uncoordinated political factions and armed groups', launched an offensive in northern CAR, which ultimately resulted in François Bozizé being deposed and forced to flee Bangui on 24 March 2013.[654] The Prosecution alleges that this did not end the armed conflict, as those loyal to François Bozizé withdrew, regrouped, trained, and continued the hostilities against the Seleka.[655]

343. The Prosecution argued that at 'all material times', in the period from at least late 2012

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[651] *Tadić* Trial Judgment, para. 573.
[652] In this connection, the introduction to article 8 in the text of the Elements of Crimes pertaining to war crimes specifies that '[t]here is only a requirement for the awareness of the factual circumstances that established the existence of an armed conflict that is implicit in the terms "took place in the context of and was associated with"'. The introduction to article 8 in the Elements of Crimes also specifies that: (a) there is no requirement for a legal evaluation by the perpetrator as to the existence of an armed conflict or its character as international or non-international; (b) in that context there is no requirement for awareness by the perpetrator of the facts that established the character of the conflict as international or non-international.
[653] Prosecution Trial Brief, ICC-01/14-01/21-359-Red, paras 3-5; Prosecution Closing Brief, ICC-01/14-01/21-1027-Red, paras 3-4, 15-20. *See also* Confirmation of Charges Decision, ICC-01/14-01/21-218-Red, p. 50, paras 2-4.
[654] Prosecution Trial Brief, ICC-01/14-01/21-359-Red, paras 5-6, 14-16; Prosecution Closing Brief, ICC-01/14-01/21-1027-Red, paras 3-9, 15-16. *See also* Confirmation of Charges Decision, ICC-01/14-01/21-218-Red, pp. 50-51, paras 8, 11.
[655] Prosecution Trial Brief, ICC-01/14-01/21-359-Red, para. 7; Prosecution Closing Brief, ICC-01/14-01/21-1027-Red, paras 3-4, 7-9, 33-34.

until at least 10 January 2014, the parties to the armed conflict were the Seleka coalition and the 'pro-Bozizé forces'.[656] According to the Prosecution, in the early period of the conflict (between late 2012 and March 2013), the 'pro-Bozizé forces' included the Central African armed forces, the 'FACA' and the Presidential Guard, without specifying which other groups were considered to have been included at this stage of the conflict.[657]

344. The confirmed charges allege that from 24 March 2013, François Bozizé and his allies rapidly re-grouped 'to strike back against the Seleka'.[658] The Prosecution submitted that, after 24 March 2013, these former FACA and Presidential Guard members, as well as pre-existing and new self-defence groups formed a *new force* called the Anti-Balaka, organised by François Bozizé and his allies to continue the hostilities against the Seleka.[659] The Prosecution alleged that, after 24 March,

> the 'pro-Bozizé forces' were comprised of 'elements of the FACA and Presidential Guards and, increasingly as the year progressed, pre-existing and new self-defence groups that were armed, organised and instructed by the pro-Bozizé forces. Among these pre-existing self-defence groups were the "Anti-Zaraguinas," which had formed prior to the emergence of the Seleka, as well as the youth groups COCORA and COAC, which were formed and armed by associates of BOZIZE prior to the Seleka's takeover of Bangui, with the aim of resisting the Seleka's advance.[660]

345. The Chamber notes that the Prosecution argued that all these were 'pro-Bozizé forces' because they were advancing François Bozizé's interests against the Seleka.[661] The two opposing parties to the armed conflict alleged by the Prosecution are fundamentally defined in relation to him: on one side, the Seleka 'united by their shared dissatisfaction' with his government, and on the other side, the 'pro-Bozizé forces' joined by their loyalty

[656] Prosecution Closing Brief, ICC-01/14-01/21-1027-Red, paras 4, 33-50. *See also* Confirmation of Charges Decision, ICC-01/14-01/21-218-Red, p. 50, para. 2.
[657] Prosecution Trial Brief, ICC-01/14-01/21-359-Red, paras 5, 10 17; Prosecution Closing Brief, ICC-01/14-01/21-1027-Red, paras 4, 32.
[658] Confirmation of Charges Decision, ICC-01/14-01/21-218-Red, p. 51, para. 9. The Chamber notes that there is some confusion in the Prosecution's submissions regarding the 'pro-Bozizé forces' and their relationship to the Anti-Balaka, at times arguing that the Anti-Balaka formed after March 2013 and joined and became a key part of the pre-existing 'pro-Bozizé forces', and at times arguing that the 'pro-Bozizé forces' *became* the Anti-Balaka. *See* Prosecution Trial Brief, ICC-01/14-01/21-359-Red, paras 7, 17; Prosecution Closing Brief, ICC-01/14-01/21-1027-Red, paras 4, 18-20, 33-40 (emphasis added).
[659] Prosecution Trial Brief, ICC-01/14-01/21-359-Red, para. 36; Prosecution Closing Brief, ICC-01/14-01/21-1027-Red, para. 38.
[660] Prosecution Trial Brief, ICC-01/14-01/21-359-Red, para. 17. *See also* Prosecution Closing Brief, ICC-01/14-01/21-1027-Red, paras 18, 20.
[661] Prosecution Trial Brief, ICC-01/14-01/21-359-Red, paras 4, 31-32; Prosecution Closing Brief, ICC-01/14-01/21-1027-Red, paras 4, 33-34.

towards him.[662] According to the Prosecution, this division into two sides existed prior to François Bozizé's ouster and persisted thereafter, propelling the armed conflict until at least 10 January 2014.[663]

346. In the Prosecution's submission, the 'pro-Bozizé forces', although diminished in their size and capabilities in the immediate aftermath of 24 March 2013, continued to exhibit sufficient organisation, including through the 'maintenance of an effective command structure, adapted to the circumstances; the ability to carry out military operations; and the development of an effective logistical capacity, including to recruit new fighters'.[664] The Prosecution also argued that '[w]hile there was a lull in the frequency of clashes immediately after Bozizé and his forces were ousted from Bangui, this did not amount to a peaceful settlement, and the intensity of hostilities was renewed within months', with the parties maintaining their aggressive posture throughout.[665]

347. The Prosecution argues that Mr Said, as a senior leader of the Seleka coalition, who cooperated in establishing the new government and suppressing all resistance to the Seleka regime, was aware of the factual circumstances that established the existence of the armed conflict.[666]

348. The Common Legal Representative of Victims pointed to the creation and organisation of the Anti-Balaka 'approximately one to two months after the Seleka took power in Bangui'.[667] She submitted that several 'professional soldiers – FACA members – also joined and provided combat training in the run-up to their attacks on 5 December 2013' and that hostilities were protracted.[668] Further, as regards the organisational requirements of an armed group under article 8(2) of the Statute, the Common Legal Representative of Victims emphasised that 'the Statute is of universal application' and 'cautions against a Western-centric interpretation of the texts that would *de facto* render them inapplicable

[662] Prosecution Trial Brief, ICC-01/14-01/21-359-Red, para. 4; Prosecution Closing Brief, ICC-01/14-01/21-1027-Red, paras 3-4.
[663] Prosecution Trial Brief, ICC-01/14-01/21-359-Red, para. 4; Prosecution Closing Brief, ICC-01/14-01/21-1027-Red, paras 3-4.
[664] Prosecution Trial Brief, ICC-01/14-01/21-359-Red, paras 31-34. *See also* paras 36-43.
[665] Prosecution Trial Brief, ICC-01/14-01/21-359-Red, para. 44; Prosecution Closing Brief, ICC-01/14-01/21-1027-Red, paras 45, 49. *See also* Prosecution Trial Brief, ICC-01/14-01/21-359-Red, paras 45-49; Prosecution Closing Brief, ICC-01/14-01/21-1027-Red, paras 46-49.
[666] Prosecution Trial Brief, ICC-01/14-01/21-359-Red, para. 51; Prosecution Closing Brief, ICC-01/14-01/21-1027-Red, para. 52. *See also* Confirmation of Charges Decision, ICC-01/14-01/21-218-Red, p. 50, para. 6.
[667] CLRV Closing Brief, ICC-01/14-01/21-1028-Red2, para. 80.
[668] CLRV Closing Brief, ICC-01/14-01/21-1028-Red2, paras 74, 80.

to other contexts'.[669]

349. The Defence challenges the level of organisation within *both* the Seleka and the 'pro-Bozizé forces' during the material time, arguing that neither had the requisite level of organisation to constitute a party to the armed conflict.[670] It also contends that the intensity of hostilities between these groups was insufficient to qualify as an armed conflict.[671] The Defence's arguments focus in particular on the period following the 24 March 2013 ouster of François Bozizé, when, in its submission, the lack of organisation of the pro-Bozizé forces was particularly pronounced and there were no hostilities over a period of several months.[672]

350. The Defence took issue with the Prosecution's use of the generic term 'pro-Bozizé forces', arguing that such a group had no basis in reality and that this simplification was aimed at creating the illusion of a homogenous and organized group and circumventing the legal impact of the disappearance of one of the parties to the conflict.[673] The Defence submitted that the Prosecution failed to establish the continuity of the leadership of the so called 'pro-Bozizé forces',[674] and the Prosecution simplified the extent to which the FACA joined what would later become the Anti-Balaka.[675] The Defence pointed to the lack of organisation within the alleged 'pro-Bozizé forces' after 24 March 2013.[676] Regarding the intensity of hostilities, the Defence submitted that the Prosecution did not refer to any specific incident from the end of March 2013 to the end of August 2013,[677] and that technically everything that happened after August was not relevant to determining whether an armed conflict existed between March and August 2013.[678] In any event, the Defence described the clashes between the Seleka and the Anti-Balaka

[669] CLRV Closing Brief, ICC-01/14-01/21-1028-Red2, para. 72.
[670] Defence Closing Brief, ICC-01/14-01/21-1039-Red, paras 9-57, 156, 173-242. The Chamber notes that, as part of its arguments concerning the contextual elements of article 7 of the Statute, the Defence also challenges organisational aspects of the Seleka, arguing, *inter alia*, that it had no real structure before 24 March 2013 and met its *de facto* end after this date (Defence Closing Brief, paras 9-57, 156).
[671] Defence Closing Brief, ICC-01/14-01/21-1039-Red, paras 166-264.
[672] Defence Closing Brief, ICC-01/14-01/21-1039-Red, paras 243-264.
[673] Defence Closing Brief, ICC-01/14-01/21-1039-Red, paras 192-193, 199.
[674] Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 197.
[675] Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 198.
[676] Defence Closing Brief, ICC-01/14-01/21-1039-Red, paras 174-242 pointing, *inter alia*, to an absence of a political agenda (paras 191-207), a command structure (paras 208-222), operation or logistical capacity (paras 223-228), and the lack of weapons (paras 229-241).
[677] Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 247.
[678] Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 251.

that occurred from September 2013 onwards as 'skirmishes'.[679]

351. Regarding Mr Said's alleged knowledge of the factual circumstances that established the existence of the armed conflict, the Defence submitted that the Prosecution failed to establish that Mr Said was a senior leader of the Seleka coalition, or indeed that anyone at the time would have known of the factual circumstances surrounding the existence of the alleged armed conflict.[680]

352. Considering the parties' arguments as set out above, the following sections of the judgment set out the Chamber's factual findings, evidentiary analysis and legal findings relevant to: (i) whether an armed conflict existed prior to the Seleka takeover of Bangui on 24 March 2013; and (ii) whether this conflict continued during the time material to the charges in this case, namely from at least April 2013 to the end of August 2013.[681]

3. Factual findings

a) Events before 24 March 2013

353. In the decades prior to 2013, a systemic lack of public security forces in certain Central African provinces caused people in these provinces to organise and arm themselves to defend against particular security threats.[682] Some groups, who called themselves the 'Anti-Zaraguina', defended their communities from bandits while others defended against poaching activities.[683]

354. François Bozizé, who is of Gbaya ethnicity, came to power in March 2003 through a coup against Ange-Félix Patassé, with the support, *inter alia*, of a movement known as the *Libérateurs Centrafricains* (the '*Libérateurs*') and the Chadian army.[684] François Bozizé further relied on support from the *Libérateurs* and Chad to rebuild the Central

[679] Defence Closing Brief, ICC-01/14-01/21-1039-Red, paras 253, 257, 261-264.
[680] Defence Closing Brief, ICC-01/14-01/21-1039-Red, paras 285-287.
[681] Given that the existence of an armed conflict may also impact the assessment as to whether or not a civilian population was attacked for the purposes of the contextual elements of crimes against humanity, the Chamber considers the relevant period of time to be from the date the alleged attack on the civilian population began (April 2013) to the end date of the crimes alleged in this case (end of August 2013). However, subsequent events until at least 10 January 2014 were also considered to the extent that they are relevant to assessing whether there was an armed conflict during the material time.
[682] *See* below para. 395.
[683] *See* below para. 395.
[684] *See* below para. 396.

African armed forces, the FACA and the Presidential Guard.[685]

355. Former members of the Presidential Guard under Ange-Félix Patassé, after the 2003 coup, created the APRD in Ouham-Pendé.[686] Abdoulaye Miskine, also formerly allied to Ange-Félix Patassé, created his own movement in a neighbouring region of Ouham, the *Front démocratique du peuple centrafricain* (the 'FDPC').[687]

356. François Bozizé's regime was criticised for neglecting the regions in the north and north-east of the country, predominantly inhabited by Muslims, over several years, resulting in a persistent scarcity in State resources in those regions.[688] Movements defending the rights and interests of the people in the north appeared in the north-east of CAR in the years after 2003, including one in Birao, in Vakaga, called the *Union des forces démocratiques pour le rassemblement* (the 'UFDR').[689] Michel Djotodia, Zacharia Damane, Abakar Sabone, and Captain Yao were prominent figures within the UFDR during the early stages, and Michel Djotodia was the undisputed leader of the UFDR at least by the time it joined the Seleka in 2012.[690]

357. A similar movement, the *Convention des patriotes pour la justice et la paix* (the 'CPJP') led by Nouradine Adam, Abdoulaye Hissène and Mohamed Moussa Dhaffane emerged in 2008.[691] In 2012, the CPJP divided into two wings – one led by Abdoulaye Hissène (the CPJP) and another led by Nouradine Adam (the Fundamental CPJP); whereas Mohamed Moussa Dhaffane left the CPJP to set up his own movement called the *Convention patriotique du salut du Kodro* (the 'CPSK').[692]

358. In 2008, the APRD, FDPC and UFDR, among others, entered into political dialogue with the Bozizé Government at the time. This resulted in the conclusion of peace agreements in Libreville, in which the parties agreed on the inclusion of representatives of the movements in the management of State affairs in a spirit of national reconciliation and the establishment of a demobilisation, disarmament and reintegration programme.[693]

[685] *See* below para. 396.
[686] *See* below para. 397.
[687] *See* below para. 397.
[688] *See* below para. 398.
[689] *See* below para. 398.
[690] *See* below para. 398.
[691] *See* below para. 399.
[692] *See* below para. 399.
[693] *See* below para. 400.

359. However, some of the armed groups who participated in the Libreville negotiations in 2008, including the FDPC and UFDR, continued their activities on the ground.[694] Popular dissatisfaction centred around the neglect of the north continued to brew against François Bozizé, who in turn, was seen as suppressing democratic opposition in order to secure his re-election in 2011.[695] Some politicians called for the cancellation and reorganisation of these elections and formed a political movement called the *Front de l'Annulation et la Réorganisations des Élections* (hereinafter: 'FARE').[696]

360. Leaders of FARE met with the leaders of the rebel movements in 2012, calling for an alliance to overthrow François Bozizé.[697] By August 2012, the rebel movements had consolidated to form a group named the 'Seleka', comprising, *inter alia*, the members of the UFDR, both wings of the CPJP, and CPSK.[698]

361. The groups forming the Seleka had regional (northern), religious (Muslim) and ethnic (including the Goula, the Rounga, and the Sara, among others) commonalities, as well as a shared commitment to defending the interests of the northern regions of CAR.[699] Some Chadian and Sudanese mercenaries, who had been Bozizé's *Libérateurs* in the 2003 coup, also joined the Seleka.[700] The Seleka also had members from the DRC, Chad and Sudan but were, for the most part, Central Africans.[701]

362. In late 2012, and at least as of early December 2012, the Seleka were making military preparations in the north to advance on Bangui, including by recruiting, arming, training with weapons, and preparing a plan to advance on Bangui, under a single military command.[702] They had a Chief of Staff (Aubin Issa Issaka) with a deputy (Abdel Karim Moussa), an Assistant Chief of Staff in charge of operations (Arda Hakouma), and several military advisors (including Al Khatim and Moussa Assimeh).[703]

363. By 10 December 2012, the Seleka, composed at that point of the CPSK, CPJP, UFDR and FDPC, began advancing south from the northern provinces, taking over Birao, Bria,

[694] *See* below para. 401.
[695] *See* below paras 402-403.
[696] *See* below para. 403.
[697] *See* below para. 404.
[698] *See* below para. 404.
[699] *See* below para. 405.
[700] *See* below para. 405.
[701] *See* below para. 405.
[702] *See* below para. 406.
[703] *See* below para. 406.

Ndele, Kaga Bandoro, Bambari, as well as other locations.[704] The Seleka were divided into units headed by chiefs, who communicated between each other and transmitted military instructions during their advance southward.[705] The Seleka rapidly advanced through the north of CAR as far as the centre, controlled public buildings and resources, and appropriated FACA military equipment.[706]

364. There were clashes between the Seleka and the FACA in the provinces along the route to Bangui but, for the most part, the FACA withdrew and fighting was limited.[707] Inhabitants in at least one village defended themselves from a Seleka attack during their advance to Bangui.[708] Muslims from other regions in CAR, including those in the State armed forces, joined the Seleka, swelling their numbers.[709] The Seleka groups from various localities advanced southward from the end of 2012 to early 2013 converging in Sibut after taking over the city.[710] The events at this time were reported on by the UN Security Council and the ICRC, and the ICRC qualified the situation in December 2012 as a non-international armed conflict.[711]

365. In the meantime, the Central African State armed forces and security forces were preparing to counter the Seleka.[712] François Bozizé made speeches that appeared to be aimed at mobilising the population against the Seleka, claiming, *inter alia*, that the rebels were foreigners who wanted to take the capital, that they were coming to kill and there was a need to be alert, and for the youth to stand up and fight.[713] Some youth groups associated with François Bozizé's political party, namely the *Coalition citoyenne d'opposition aux rébellions armées* (hereinafter: 'COCORA') and the *Comité d'organisation des actions citoyennes* (hereinafter: 'COAC') were active at this time.[714] However, based on the evidence, no specific action could be attributed to the youth associated with these groups in armed confrontations with the Seleka during the latter's

[704] *See* below paras 407, 409.
[705] *See* below para. 407.
[706] *See* below para. 408.
[707] *See* below para. 409.
[708] *See* below para. 408.
[709] *See* below para. 410.
[710] *See* below para. 411.
[711] *See* below paras 412, 431.
[712] *See* below para. 413.
[713] *See* below para. 413.
[714] *See* below para. 414.

advance on Bangui.[715]

366. Political dialogue was initiated in January 2013 in N'Djamena, whereby the heads of states of the Economic Community of Central African States (the 'ECCAS' or 'CEEAC', the *Communauté Économique des États de l'Afrique Centrale*) decided on the setting up of a 'red line', placing multinational regional forces at Damara, between the Seleka and the FACA, who were required to maintain their respective positions.[716]

367. On 11 January 2013, further political negotiations took place at a second summit in Libreville, Gabon between the Bozizé Government and the Seleka, under the auspices of ECCAS, which resulted in an agreement, *inter alia*, on power sharing between the Bozizé Government, the Seleka, and the individuals from the democratic opposition at the time (the '2013 Libreville Agreement').[717] The agreement was signed by Michel Djotodia (for the 'Seleka – CPJP, UFDR, UFR,[718] CPSK') and Abdoulaye Hissene (for 'politico-military non-combatants – CPJP, MLCJ, FDPC').[719] The parties agreed that a government of national unity would be set up for a period of one year, that a demobilisation, disarmament and reintegration programme would be instituted for members of the Seleka forces and that François Bozizé could not present himself as a candidate in the next presidential election.[720]

368. By March 2013, François Bozizé signalled that certain terms of the 2013 Libreville Agreement would not be respected, by, *inter alia*, seeking military support from South Africa and announcing his intention to run for president again.[721] He sought military support from South Africa and deployed South African forces in Bangui for his protection.[722]

369. In early March 2013, Seleka leaders, some of whom had recently been appointed ministers by virtue of the 2013 Libreville Agreement, including Michel Djotodia, met in Sibut and decided to continue their advance on Bangui.[723] Michel Djotodia was in contact

[715] *See* below para. 414.
[716] *See* below para. 415.
[717] *See* below para. 416.
[718] *See* below para. 398, n. 819.
[719] *See* below para. 416.
[720] *See* below paras 416-418.
[721] *See* below para. 419.
[722] *See* below para. 419.
[723] *See* below paras 420-422.

with the Seleka forces marching on Bangui and the Seleka assistant chief of staff (Arda) and the first deputy chief of staff kept Michel Djotodia informed of the towns successively falling under Seleka control.[724]

370. By March 2013, the Seleka forces numbered between approximately 7,000 and 8,000 fighters.[725] The Central African armed forces were ill-equipped to confront the Seleka.[726]

371. The Seleka and the FACA, supported by the South African forces, fought at PK55 and PK12.[727] Seleka commanders coordinated their actions, pushing the South African forces back, and advancing towards Bangui up to PK12 on 23 March 2013.[728] South African forces retreated on the morning of 24 March 2013.[729]

372. The Seleka arrived in Bangui on the morning of 24 March 2013, armed and dressed in mixed military clothing in pick-up vehicles mounted with weapons, and others on foot.[730] Some members of the Central African armed forces fled, some did not report to duty on that day, or went into hiding.[731] There were no armed forces to confront the Seleka as they made their way into Bangui and the takeover of Bangui took place largely without armed clashes between the Seleka and the FACA.[732]

373. Before the Seleka arrived in Bangui, François Bozizé gathered his entourage and told them to save themselves before himself fleeing to Cameroon.[733] A number of members of the FACA and Presidential Guard accompanied François Bozizé and his family to safety across the CAR border.[734] Some members of François Bozizé's Presidential Guard, including Steve Yambete and Olivier Koudemon, as well as Bernard Mokom, Patrice-Edouard Ngaïssona, among others, took refuge in Cameroon.[735] Some of François Bozizé's family members and a number of members of the FACA and Presidential Guard fled to Zongo, across the river from Bangui in the DRC.[736] This

[724] *See* below para. 423.
[725] *See* below para. 424.
[726] *See* below para. 424.
[727] *See* below paras 425-426.
[728] *See* below paras 425-426.
[729] *See* below para. 426.
[730] *See* below para. 427.
[731] *See* below para. 428.
[732] *See* below paras 428-429.
[733] *See* below paras 428, 433.
[734] *See* below para. 428.
[735] *See* below para. 447.
[736] *See* below para. 433.

included Maxime Mokom (a former police official),[737] Dazoumi Yalo, Eugène Ngaïkosset and Alfred Yekatom aka 'Rombhot'.[738] A number of civilians and members of the State armed forces of unknown political affiliation also fled the country.[739]

374. Upon the Seleka takeover of Bangui on 24 March 2013, Michel Djotodia proclaimed himself President of CAR.[740]

b) Events after 24 March 2013

375. Based on the arguments of the parties and participants, the analysis relating to the period following the Seleka take-over of Bangui set out below focuses on the activities and allegiances of the FACA and Presidential Guard, the activities of high-profile figures associated with former President François Bozizé during this time, as well as the emergence and organisation of the pre-existing and new self-defence groups alleged by the Prosecution to have formed the Anti-Balaka and to have been organised by François Bozizé and his allies to continue the hostilities against the Seleka.[741] The Chamber also considers the security situation in CAR more generally between 24 March and December 2013 as well as clashes between the Seleka and Anti-Balaka during this time until at least 10 January 2014.

i. FACA and Presidential Guard

376. After the Seleka takeover of Bangui on 24 March 2013, there was a situation of uncertainty and chaos.[742] Many members of the FACA and Presidential Guard abandoned their posts and went into hiding in Bangui, or sought refuge in the DRC, Cameroon and the Republic of the Congo.[743] As they fled, soldiers took what weapons they could carry and hid or abandoned weapons that they could not take with them.[744] Members of the Central African armed forces, who did not get a chance to leave the country, went into hiding.[745]

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[737] *See* below para. 449
[738] *See* below paras 433, 450.
[739] *See* below para. 434.
[740] *See* below para. 430.
[741] Prosecution Trial Brief, ICC-01/14-01/21-359-Red, para. 36; Prosecution Closing Brief, ICC-01/14-01/21-1027-Red, para. 38.
[742] *See* below paras 432-434.
[743] *See* below paras 432, 434.
[744] *See* below paras 444-445.
[745] *See* below paras 432, 434.

377. After an initial period of uncertainty, on 28 March 2013, a number of generals of the army, senior officers of the police and gendarmerie pledged allegiance to Michel Djotodia.[746] Michel Djotodia issued calls for civil servants to return to work and Nouradine Adam, the Minister of Public Security at this time, repeated these calls and held a meeting in April 2013, the '*Grand Rapport*', with police officers urging the security and defence forces to resume their work.[747] Many members of the Central African defence and security forces reported for duty between early April 2013 and July 2013 and were formally brought under Michel Djotodia's command as President and Minister of Defence.[748] Military personnel had a difficult and tense working relationship with the Seleka and many of them no longer went to work frequently as they feared for their lives.[749] Some members of the FACA left military life and returned to their homes, while many others remained in exile.[750]

ii. 'Pro-Bozizé exiles'

378. François Bozizé and persons close to him, an entourage that included individuals from military and civilian backgrounds, took refuge in Cameroon and began organising in opposition to the Seleka.[751] Other persons who were linked to the Bozizé regime (also of a mixed military and civilian background) sought refuge in Zongo (the DRC) and were in communication with those in Cameroon.[752] Meetings were held to solicit support from abroad and to prepare a movement to expel the Seleka from CAR.[753] A number of individuals alleged to have links to François Bozizé communicated with each other from at least May 2013 and were strategising about organising a response to the Seleka.[754] Maxim Mokom in Zongo was communicating with Bernard Mokom (a relative of François Bozizé and former sub-prefect in a town bordering Cameroon) and Patrice-Edouard Ngaïssona (a businessman and former Minister of Youth, Sport, Arts and Culture under Bozizé) in Cameroon.[755] The Chamber could not conclude that these individuals were necessarily motivated by the desire to reinstate François Bozizé as

[746] *See* below para. 435.
[747] *See* below paras 436-437.
[748] *See* below paras 438, 790, 798.
[749] *See* below paras 439, 803-805.
[750] *See* below paras 433, 440.
[751] *See* below paras 433, 446-447.
[752] *See* below paras 433, 449.
[753] *See* below paras 446, 450.
[754] *See* below para. 451. *See also* para. 481.
[755] *See* below paras 447-448, 451.

President or were acting under his instructions.[756] The Chamber could not conclude that there was a hierarchy between François Bozizé and persons allegedly associated with him, namely Maxime Mokom, Bernard Mokom and Patrice-Edouard Ngaïssona.[757] On 16 August 2013, the Front for the Return to the Constitutional Order (the 'FROCCA') was announced, a movement created by Lin Banoukepa and involving Patrice-Edouard Ngaïssona, Levy Yakete and Joachim Kokaté, which publicly advocated for a return to the constitutional order in CAR, understood as entailing the reinstatement of François Bozizé as President.[758]

iii. Emergence of the Anti-Balaka

379. From June 2013, a group began gathering in Gobere, a location in the bush near Bossangoa in Ouham Prefecture.[759] In the early stages, a small number of individuals (witness estimates ranging between 10 and 17) were former members of the State armed forces, while a large majority of the individuals gathering in Gobere were persons from a non-military background.[760] The gathering at Gobere was organised by word of mouth as people fled their respective towns and villages and joined the movement following Seleka exactions against the civilian population.[761]

380. This group adopted the name 'Anti-Balaka' which stood for '*anti-balles* AK' and emerged as a movement which undertook to engage militarily with the Seleka.[762] The number of Anti-Balaka increased over the months between June and December 2013 as more civilians and former FACA members fled Seleka exactions.[763]

381. From late June/early July 2013, there was a group of leaders or chiefs in place at Gobere.[764] The individuals identified as responsible for creating the group and commanding the group were of a mixed civilian and military background.[765] Dedane, a former *Corporal-Chef* in Bozizé's Presidential Guard was responsible for coordinating operations with Maxime Mokom, a former police official who had sought refuge in

[756] *See* below para. 481.
[757] *See* below para. 454.
[758] *See* below paras 452-453.
[759] *See* below paras 457, 468, 470.
[760] *See* below paras 457, 463.
[761] *See* below paras 458-461.
[762] *See* below para. 458.
[763] *See* below paras 459, 465.
[764] *See* below paras 466-467.
[765] *See* below paras 466-467.

Zongo.[766] Instructions were received from Maxime Mokom.[767] The chiefs of the groups communicated between each other to discuss strategy.[768] On the basis of the evidence presented, it was unclear when these coordination activities would have begun. People that gathered in Gobere were organised into groups and group-chiefs were assigned.[769] Members were registered and lists of members were constantly updated and sent to Maxime Mokom.[770] This group publicly came to light as the Anti-Balaka by July or August 2013 at the latest.[771]

382. Another Anti-Balaka group formed in Kalangoi headed by Alfred Yekatom, a former FACA member who initially fled to Zongo before returning to CAR a few months before the December attack on Bangui.[772] This group was initially composed of five former members of the Central African armed forces and a number of persons from a civilian background.[773] The group increased in size as it advanced towards Bangui, as more individuals, including civilians, joined following the Seleka's abuses against the population in Bangui.[774]

383. Many of the persons and leaders gathering in Gobere and Kalangoi were motivated by a need to respond to and defend against Seleka exactions against civilians.[775] From the number of civilians that joined the groups in Gobere, there were those that had previously been part of self-defence groups in their localities.[776] The Chamber could not establish whether the youths who joined the Anti-Balaka were associated with COCORA and COAC or whether these groups continued to exist in late 2013.[777]

384. During its early formation, conditions in Gobere were difficult and the people gathering there had limited food and shelter.[778] Those gathering were armed with hunting rifles, wooden sticks, makeshift weapons, while some former members of the State armed

[766] *See* below paras 449, 466-467.
[767] *See* below para. 466.
[768] *See* below paras 480-482.
[769] *See* below paras 471-473.
[770] *See* below para. 472.
[771] *See* below para. 470.
[772] *See* below para. 464.
[773] *See* below para. 464.
[774] *See* below para. 464.
[775] *See* below paras 458, 461-462, 464.
[776] *See* below para. 460.
[777] *See* below para. 465.
[778] *See* below para. 473.

forces used their personal or service weapons.[779] Although former FACA members hid weapons prior to leaving Bangui,[780] the Chamber was not satisfied that these weapons were eventually retrieved on a large-scale by the Anti-Balaka. At some point prior to the attack on Bangui, the Anti-Balaka in Gobere received at least one supply of weapons and Yekatom's group also obtained weapons.[781] Some military training was provided with the limited weapons available and the group received financial support from its own membership as well as through financial transfers from Cameroon and Patrice-Edouard Ngaïssona, a former minister in François Bozizé's government.[782]

385. At least as of August 2013, the groups gathered at Gobere and to the south-west of Bangui exhibited limited military operational capacity, no ability to carry out large-scale operations, and no control over territory apart from maintaining a presence in a limited region in the bush in these areas.[783] From September 2013 onwards, the military capacity of the Anti-Balaka increased as they engaged the Seleka initially at smaller bases, their numbers increased and they managed to obtain more weapons.[784] There is no indication that the basic structure of the Anti-Balaka changed in 2013.

iv. Security situation in CAR generally

386. Following the takeover of Bangui, the number of Seleka increased as the year progressed.[785] Some Seleka troops underwent training under FACA officers and training was initiated in November 2013 in connection with the DDR programme for the purposes of integrating Seleka members into the FACA.[786]

387. The Seleka suspected former FACA members in exile in the DRC of posing a security threat to the Seleka in Bangui and Nouradine Adam was attempting to gather information on their activities.[787] The Seleka also targeted individuals perceived to be supporters of François Bozizé in efforts to gather information.[788] Michel Djotodia created an interministerial structure called the *Conseil national de Sécurité* (the 'CNS') on June

[779] *See* below paras 474, 478.
[780] *See* above para. 376.
[781] *See* below paras 475, 478.
[782] *See* below paras 476-477.
[783] *See* below para. 389 and above paras 379, 382, 384.
[784] *See* above paras 380, 382 and below para. 511.
[785] *See* below para.780.
[786] *See* below paras 788-789.
[787] *See* below paras 485, 487, 491.
[788] *See, for example*, below paras 690, 695-696, 1082, 1087.

2013.[789] Minutes of the meetings of the CNS in September and October 2013 refer to issues of security in reference to crisis or 'conflictual' areas, to the existence of terrorists and to disarmament efforts.[790] The Chamber could not determine that the Seleka were on a conflict footing and were preparing to engage or counter the groups that would later become known as the Anti-Balaka. Similarly, the Chamber could not determine that the Seleka were aware of the extent to which the Anti-Balaka were gathering, recruiting and preparing with a view to engaging militarily against the Seleka until the operations of the Anti-Balaka became apparent.[791]

388. The situation in CAR continued to attract the attention of the international community throughout 2013 and the UN Secretary General noted a serious deterioration in the situation between August and December 2013 and a further deterioration in the security situation in CAR in 2014.[792]

v. Hostilities between the alleged 'pro-Bozizé forces' and the Seleka

389. Between 24 March 2013 and 31 August 2013, there were three incidents involving the Seleka and persons purportedly linked to François Bozizé.[793] Steve Yambete organised an operation aimed at taking Garam-Boulaï and Bouar, but it was unsuccessful.[794] Prior to the April operation in Boy Rabe, two Seleka members were killed by a grenade on 11 April 2013 in Boy Rabe, and, prior to the August operation, shells were fired the night before Michel Djotodia's inauguration on 18 August 2013 at Michel Djotodia's convoy and the Seleka stationed at the National Assembly in an attempt to disrupt the swearing-in ceremony.[795] However, the Chamber was unable to determine that these were armed confrontations between the Seleka and the groups that would become known as the Anti-Balaka.[796]

390. From September 2013 onwards, the Anti-Balaka groups at Gobere targeted localities around the Bossangoa area and towards Bangui, including in Zéré, Bouca, Lere, Gbadé, Dadoukota 1 and 2, Benzambé, Ouham-Bac, Bossangoa, Bouca, Bogangolo, and Ndjo.[797]

[789] *See* below para. 486.
[790] *See* below paras 488-490.
[791] *See* below paras 493-496.
[792] *See* below para. 497.
[793] *See* below paras 501-505.
[794] *See* below para. 501.
[795] *See* below paras 502-503, 727.
[796] *See* below para. 504.
[797] *See* below paras 507-510.

However, based on the evidence, the Chamber was unable to determine the scale of any clashes between the Seleka and the Anti-Balaka and whether civilians rather than Seleka members were targeted in these localities.[798]

391. Large-scale clashes took place between the Anti-Balaka and the Seleka on 5 December 2013 in Bangui and Bossangoa.[799] These attacks followed a coordinated military strategy to target locations in Bangui and Bossangoa where the Seleka were known to be present.[800] In the period that followed, there were sustained clashes between the two groups.[801]

vi. Aftermath of the attacks on 5 December 2013

392. The French forces (Operation Sangaris) were deployed in Bangui immediately after the attack on 5 December 2013.[802] Michel Djotodia resigned on 10 January 2014.[803]

393. Patrice-Edouard Ngaïssona returned to Bangui following Michel Djotodia's resignation and became the general coordinator of the Anti-Balaka.[804] There was infighting between Maxime Mokom and Patrice-Edouard Ngaïssona for control over the Anti-Balaka in 2014.[805] It could not be determined that François Bozizé held a leadership role in the Anti-Balaka after Michel Djotodia's resignation.[806]

4. Evidentiary analysis

394. For the purposes of the following analysis, the Chamber considered a significant volume of testimonial evidence, including from senior members of the government, former members of the State armed forces, including those who were with François Bozizé at the time, as well as accounts of former Seleka members and of individuals who were part of the groups that later came to be known as the Anti-Balaka. The Chamber also considered documentary evidence, including contemporaneous documentation of the

[798] *See* below paras 511-512.
[799] *See* below paras 514-520.
[800] *See* below paras 514, 516, 518.
[801] *See* below para. 521.
[802] *See* below para. 521.
[803] *See* below para. 522.
[804] *See* below para. 524.
[805] *See* below para. 524.
[806] *See* below paras 523-524.

situation from international bodies,[807] reports prepared by external observers, some of whom appeared as Defence witnesses,[808] and documents obtained from various State ministries in CAR.[809]

a) Events before 24 March 2013

395. When testifying about the factors that gave rise to instability and conflict in CAR and the events of concern to the Chamber, witnesses recalled a systemic lack of public security forces in certain provinces. Multiple witnesses testified that this caused people in these provinces to organise and arm themselves to defend against particular security threats; some, who called themselves the 'Anti-Zaraguina', defended their communities from

[807] The historical background of the conflict has also been covered in some detail in the reports before the Chamber, prepared by the UN Security Council and the UN Human Rights Council that were monitoring the situation in CAR at the time. The UNHCHR sent a fact-finding mission to CAR to collect information on human rights violations from 10 December 2012 to 11 July 2013, the annual report of which was presented to the UN General Assembly in September 2013 and February 2014 (UNHCHR Report September 2013, CAR-OTP-2001-0172 and UNHCHR Report February 2014, CAR-OTP-2001-0391). The report of the fact-finding mission is also before the Chamber (UNHCHR Fact-Finding Mission Report, CAR-OTP-2034-0270). The UN Secretary General presented reports on the situation in CAR during the relevant period, some of which are before the Chamber: UNSG Report May 2013, CAR-D30-0004-0102, UNSG Report December 2013, CAR-OTP-2001-0329, UNSG Report November 2013, CAR-OTP-2001-1102, UNSG Report March 2014, CAR-OTP-2001-0409. In January 2014, the UN Secretary General appointed a three-commission of inquiry on CAR (the 'UN Commission of Inquiry') located in Bangui that submitted a preliminary report in June 2014 and a final report in December 2014 (UN Commission of Inquiry Preliminary Report June 2014, CAR-OTP-2001-1075 and UN Commission of Inquiry Final Report December 2014, CAR-OTP-2001-7017). In February 2014, the UN Secretary General appointed a five-member expert panel on CAR that presented its interim report to the UNSC in July 2014 (UN Panel of Experts Interim Report, CAR-OTP-2001-0835). The UN Integrated Peacebuilding Office in CAR (hereinafter: 'BINUCA') also reported on the general human rights situation in CAR between the period 24 March and 7 May 2013 (BINUCA Report May 2013, CAR-OTP-2034-0226). The African Union conducted a joint assessment of the security sector in CAR from 18-24 May 2014, covering the events from 2013; it was led by the Special Representative of the Chairperson of the African Union Commission to CAR and comprised experts from the African Union, the UN, the European Union, the ECCAS and the African Security Sector Network; its findings were reported on 24 May 2014 (African Union SSR Report May 2014, CAR-OTP-2123-0285).

[808] The Chamber has before it written reports on the situation in CAR produced by witnesses in various capacities, some of whom also testified before this Chamber, namely Defence witnesses Annyssa Bellal (P-0015) and Thomas Cantaloube (P-0022). *See* The War Report, CAR-D33-0014-1617; P-0015: T-135, T-136; Reports by Thomas Cantaloube, CAR-D33-0014-1579, CAR-D33-0014-1582, CAR-D33-0014-1588, CAR-D33-0014-1597, CAR-D33-0014-1607, CAR-D33-0014-1611, CAR-D33-0014-3435; P-0022: T-134. *See also* reports by P-2926, CAR-OTP-2127-8094, CAR-OTP-2127-8023, CAR-OTP-2127-7981; P-2926: prior recorded testimony given in the *Yekatom and Ngaïssona* case, CAR-D33-0014-2884, CAR-D33-0014-2987, CAR-D33-0014-3092; The War Report, CAR-D33-0014-1823.

[809] *See, for example*, mission orders, CAR-OTP-2034-2837, CAR-OTP-2034-3090, CAR-OTP-2034-3103, CAR-OTP-2034-4018; reports, CAR-OTP-2075-0908, CAR-OTP-2075-0933, CAR-OTP-2075-0906, CAR-OTP-2034-3552.

bandits,[810] while others defended against poaching activities,[811] with both groups existing in various regions decades well before 2012.[812]

396. As regards François Bozizé, there is evidence that he was of Gbaya ethnicity and came to power in March 2003 through a coup against Ange-Félix Patassé with the support, *inter alia*, of a movement known as the *Libérateurs Centrafricains* and the Chadian army at the time.[813] A number of witnesses testified that, in the aftermath of this coup d'état, François Bozizé further relied on support from the *Libérateurs* and Chad to rebuild the Central African armed forces, including the FACA and the Presidential Guard.[814]

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[810] Witnesses described the *zaraguina* as thugs and highway robbers, particularly prevalent in regions bordering Cameroon and Chad, including in Ouham and Ouham Pendé, who were known to attack traders, travellers, farmers and herders since the 1980s; as the State armed forces were not able to provide security in parts of these regions, certain inhabitants organised a self-defence system called the Anti-Zaraguina: P-0884: T-077, pp. 18, 21; P-2232: T-103, p. 18; P-2563: T-114, p. 39; P-2328: T-128, pp. 24-25. Some witnesses used the term '*coupeurs de route*' to describe highway robbers: P-2251: T-067, pp. 7-8; P-2328: CAR-OTP-2099-0165, at 0170, para. 27, draft translation: CAR-OTP-00000147, at 000006, para. 27. *See also* UN Panel of Experts Interim Report, CAR-OTP-2001-0835, at 0844, para. 20; African Union SSR Report May 2014, CAR-OTP-2123-0285, at 0300, para. 28.

[811] Witnesses recalled threats from poachers being more pronounced in the northern regions of Vakaga and Bamingui-Bangoran, and particularly in Birao: P-2328: T-128, pp. 24-25; P-0349: T-095, pp. 24-26. *See also* African Union SSR Report May 2014, CAR-OTP-2123-0285, at 0300, para. 29.

[812] P-0884: CAR-OTP-2072-1356, at 1364; P-0884: CAR-OTP-2072-1397, at 1416-1420; P-2232: T-103, pp. 16-18; P-2251: CAR-OTP-2093-0045, at 0051, para. 38; P-2251: T-067, pp. 7-8, 53-54; P-2328: T-128, pp. 18-24, referring to video interview of Jean-Jacques Demafouth in August 2013, CAR-D33-0014-1384, at 4:56 to 8:48; transcripts, CAR-D33-0014-1385, CAR-D33-0014-1390. The Chamber notes that the parties have used the term 'self-defence groups' to describe generically *any* group that emerged in a village or a community in defence of an outward threat. This would appear to cover both the Anti-Zaraguina and groups organised against poachers without regard to their respective history and origin. For example, the Prosecution uses the term 'pre-existing and new self-defence groups' forming part of the 'pro-Bozizé forces' without further indication as to their origin, history or affinity: Prosecution Closing Brief, ICC-01/14-01/21-1027-Red, paras 18-19. Similarly, the Defence uses the term 'self-defence groups' to refer both to the rebel groups forming the Seleka, as well as those that joined the Anti-Balaka without drawing a distinction: Defence Closing Brief, ICC-01/14-01/21-1039-Red, paras 23, 174-239. Therefore, the Chamber considers the use of a generic term like 'self-defence group' to be unhelpful and inaccurate in this case. It also notes that the evidence from Central African witnesses presented a more nuanced reality. Accordingly, the Chamber has not used this term, except when referring to the parties' arguments. Wherever reflected in the evidence, the Chamber has used the actual origins or leadership of a particular group as an identifier. It also considered that just because a group was termed a 'self-defence group' did not, without more, mean that it was Seleka or pro-Bozizé.

[813] P-2328: CAR-OTP-2099-0165, at 0171, para. 34, draft translation: CAR-OTP-00000147, at 000007, para. 34; P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-054-CONF-ENG, pp. 47-48. [REDACTED] recalled joining François Bozizé's rebellion in late 2002 and there being many Chadians and South Sudanese Muslims in this rebel group, many of whom later joined Michel Djotodia in 2012 and 'toppled Bozizé's regime in 2013': [REDACTED]. [REDACTED]: P-2269: CAR-OTP-2111-0336, at 0338, 0342, paras 15-16, 43. *See also* P-1277: CAR-OTP-2051-0966, at 0970, para. 15; P-2328: CAR-OTP-2099-0165, at 0171, paras 32-34, draft translation: CAR-OTP-00000147, at 000007, paras 32-34; P-2328: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-049, p. 92.

[814] [REDACTED]: P-1420: CAR-OTP-2040-0811, at 0813, para. 16. [REDACTED]: P-2269: CAR-OTP-2111-0336, at 0338, paras 15-16. P-1277 recalled a recruitment drive for the FACA in 2004, which was the last of its kind, and during which each applicant had to pay 5,000 CFA. P-1277 stated that, in the end, only those close to François Bozizé and his family were selected and this caused huge dissatisfaction in the 4th arrondissement. *See* P-1277: CAR-OTP-2051-0966, at 0970, paras 15-18; Annex 2 to the UN Panel of Experts Interim Report, CAR-OTP-2001-0835, at 0865.

397. Witnesses testified that people linked to Ange-Félix Patassé created their own rebel movements in the northwest of CAR after the 2003 coup: for instance, former members of the Presidential Guard under Ange-Félix Patassé created the APRD in Ouham-Pendé.[815] There is evidence that Abdoulaye Miskine, also formerly allied to Ange-Félix Patassé, created his own movement in a neighbouring region of Ouham, the FDPC.[816]

398. Witnesses consistently recalled the Bozizé regime neglecting the regions in the north and north-east of the country, predominantly inhabited by Muslims, over several years, resulting in a persistent scarcity in State resources.[817] Witnesses testified that, against this backdrop, movements defending the rights and interests of the people in the north appeared in the north-east of CAR in the years after 2003, including one in Birao, in Vakaga, called the UFDR.[818] The evidence before the Chamber shows that Michel Djotodia, Zacharia Damane, Abakar Sabone, and Captain Yao were prominent figures within the UFDR during the early stages, and Michel Djotodia was the undisputed leader

[815] P-2328: T-128, pp. 25-26; P-2328: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-046-CONF-ENG, p. 22. Jean-Jacques Demafouth, who joined the APRD in December 2008, recalled there being no internal factions within the APRD from 2009 until it was dissolved in 2012: P-2328: T-128, pp. 34-35, 45-46; P-2328: T-129, p. 4. *See also* UNHCHR Report February 2014, CAR-OTP-2001-0391, at 0396, para. 25.

[816] P-0291: T-060, pp. 53-56; P-2328: T-128, pp. 34-35. *See also* UNHCHR Report February 2014, CAR-OTP-2001-0391, at 0396, para. 25. The Chamber also received evidence concerning the fluctuating allegiances of Abdoulaye Miskine. Nicolas Tiangaye recalled him being an ally of Ange-Félix Patassé, then joining the Seleka, then withdrawing from the Seleka and joining the Anti-Balaka against the Seleka in 2013: P-0291: T-060, pp. 55-56. *See also* UNHCHR Report February 2014, CAR-OTP-2001-0391, at 0396, para. 25. As regards the Defence's arguments concerning the political opportunism displayed by Abdoulaye Miskine and the FDPC, the Chamber considers that the FDPC joining the Anti-Balaka in 2013 and then working *against* the Seleka did not mean that this group was not a member of the Seleka in late 2012. *See* P-0291: T-060, pp. 55-56.

[817] Jean-Jacques Demafouth considered the State administration to be absent in the regions of Vakaga, Bamingui-Bangoran, and Haut-Mbomou: P-2328: T-128, pp. 18-24, referring to video interview of Jean-Jacques Demafouth in August 2013, CAR-D33-0014-1384, at 04:56 to 08:48; transcripts, CAR-D33-0014-1385; CAR-D33-0014-1390. P-0884 spoke similarly of the region of Bokanga in the north, mostly inhabited by Muslims, having no support of the government: P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-054-CONF-ENG, pp. 22-23. In the same vein, P-0349 named the regions of Birao, Vakaga, Ndele to Bria as lacking basic health and education structures, drinking water, infrastructure for water, roads and electricity: P-0349: T-095, pp. 22-23. P-2926, a foreign reporter and commentator on the situation in CAR, described the north-eastern part of CAR as geographically remote, historically marginalised and almost devoid of public services. *See* report of P-2926 for the Prosecution, CAR-OTP-2127-4289, at 4294.

[818] P-0349: CAR-OTP-2075-0812, at 0816, para. 21; P-2105: T-025, pp. 63-64; P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-054-CONF-ENG, pp. 22-23. P-0349 recalled that youth in Birao that were defending against the poachers from Sudan joined the UFDR: P-0349: T-095, pp. 24, 29-31, 35-36; P-2563: T-114, p. 38. P-1967 provided information about the Goula Muslims, Goula Christians, and other tribes of the north. He stated that Birao, close to the Sudanese Chadian border, was the home of the Goula and they are in the majority there, the Rounga are dominant in the Ndele region and also live in and around Birao, the Sara, the Youlou and the Goula also live in Ndele: P-1967: CAR-OTP-2069-0498, at 0514, paras 71-72.

of the UFDR at least by the time it joined the Seleka in 2012.[819]

399. Witnesses recalled another movement appearing in 2008, also from the north-east in the prefecture of Bamingui-Bangoran, called the CPJP, led by Nouradine Adam,[820] Abdoulaye Hissène and Mohamed Moussa Dhaffane.[821] P-0349 testified that, in 2012, the CPJP divided into two wings – one led by Abdoulaye Hissène (the CPJP) and another led by Nouradine Adam (the Fundamental CPJP);[822] whereas Mohamed Moussa Dhaffane set up his own movement called the CPSK.[823]

400. Jean-Jacques Demafouth and P-0884 testified that, in 2008, the APRD, FDPC and UFDR, among others, entered into political dialogue with the Bozizé Government, resulting in the signing of peace agreements in Libreville.[824] A copy of one of these

[819] The Chamber also notes the Defence's arguments concerning personalities like Captain Yao, Damane Zakaria, Abakar Sabone and Florian Ndjadder, all of whom, it argued, claimed leadership within the UFDR: Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 20. As regards Florian Ndjadder, the Chamber notes that the evidence shows that he was not one of the leaders of the UFDR. P-0349, commented on an interview alleged by the Defence to have been given by Ndjadder as the secretary general of a group called the *L'Union des Forces Républicaines* ('UFR'), which the Chamber notes is distinct from the UFDR. [REDACTED]: P-0349: T-095, pp. 41-43, referring to interview, CAR-D33-0004-0453. *See also* P-0291: T-061, p. 8; letter, CAR-OTP-2101-3435. As regards the Defence's arguments that the UFDR was beset by claims of ownership, strong disagreements and in-fighting, the Chamber considers that the evidence does not support the Defence's submission. In this regard, the Chamber notes that Jean-Jacques Demafouth did not recall any infighting in the UFDR between Michel Djotodia and Zakaria Damane: P-2328: T-128, pp. 51-52. *See also* P-2563: T-114, pp. 38-39. While [REDACTED] agreed that there was internal fighting within the UFDR between Michel Djotodia, Abakar Sabone and Damane Zakaria ([REDACTED]), taking his evidence as a whole, he was unequivocal in his description of Michel Djotodia as a 'mastermind' and a founding leader of the UFDR: [REDACTED]. In the view of the Chamber, [REDACTED]'s general agreement as to the existence of internal struggles amongst certain leaders of the UFDR did not throw into question that it existed as one movement under Michel Djotodia's leadership at least in 2012.

[820] The Chamber notes that the Defence points to Charles Massi as claiming leadership in the CPJP: Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 21. According to P-0349, the CPJP was founded and financed by Nouradine Adam and the 'brains behind the movement' was Charles Massi (deceased); [REDACTED]. P-0349 recalled that Abdoulaye Hissène and Mohamed Moussa Dhaffane were two other leaders of the CPJP at the time. *See* P-0349: CAR-OTP-2075-0812, at 0817, paras 23-25; P-0349: T-095, p. 40. Nicolas Tiangaye testified that Charles Massi was a Senior Minister in the Bozizé Government, who rebelled and joined the CPJP; he did not think that Massi was a founding member but may have been a leader and was ultimately killed: P-0291: T-061, pp. 10, 12, 14. *See also* P-2105: T-025, pp. 64-65; UNHCHR Report February 2014, CAR-OTP-2001-0391, at 0397, para. 26. P-2563 confirmed that the objective of the CPJP was to fight against the abandonment of the North by the Bozizé Government and there was fighting amongst the groups in the North to grab diamonds and other natural resources: P-2563: T-114, p. 33. The Chamber received limited evidence concerning Charles Massi's actions in 2012 or 2013. However, assuming that Charles Massi founded the CPJP alongside Nouradine Adam and may have had some leadership role in it during the events in 2012, none of this put into question Nouradine Adam's founding of the CPJP in 2008 and his leadership role in the CPJP.

[821] P-0349: CAR-OTP-2075-0812, at 0817, paras 23-27; P-0349: T-095, pp. 40-41. *See also* UNHCHR Report February 2014, CAR-OTP-2001-0391, at 0397, para. 27.

[822] P-0349: CAR-OTP-2075-0812, at 0817, paras 23-27. *See also* P-2105: T-025, pp. 64-65. [REDACTED].

[823] P-0349: T-095, pp. 40-41. *See also* UNHCHR Report February 2014, CAR-OTP-2001-0391, at 0397, para. 27.

[824] P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-054-CONF-ENG, pp. 25-26; 2008 Libreville Agreement, CAR-OTP-2001-0766. Jean-Jacques Demafouth, who was the APRD president in 2008, recalled the process that year: P-2328: T-128, pp. 55-57; P-2328: CAR-OTP-2099-0165,

agreements is in evidence and shows that key elements of these agreements were the inclusion of representatives of the movements in the management of State affairs in a spirit of national reconciliation and the establishment of a demobilisation, disarmament and reintegration programme.[825]

401. Jean-Jacques Demafouth and P-0884 recalled that the terms of these agreements were not respected by most of the parties,[826] meaning that some of the armed groups who participated in these negotiations continued their activities on the ground.[827] Jean-Jacques Demafouth, who led the APRD in 2008, testified that the APRD was the only group to follow the demobilisation programme to the end and dissolved in 2012.[828]

402. Multiple witnesses testified that popular dissatisfaction centred around the neglect of the north continued to brew against François Bozizé, creating conditions conducive to the emergence of a more solidified rebellion against it.[829] Nicolas Tiangaye stated that François Bozizé 'ran the country like a private company', 'had an autocratic leadership style' and exercised his power as Head of State 'in a very personal way'.[830] He testified that the police and defence forces 'were at the service of his power', meaning that '[h]e did everything to ensure that his power would endure'.[831] Nicolas Tiangaye recalled that most of François Bozizé's children occupied positions in the military and the gendarmerie at the time.[832]

403. The Chamber received evidence that, in the aftermath of the peace agreements reached in Libreville in 2008 and in violation of their terms, François Bozizé also moved to

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at 0172, 0215, paras 37, 258-259, draft translation: CAR-OTP-00000147, at 000008, 000051, paras 37, 258-259; P-2328: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-046-CONF-ENG, p. 13. The CPJP did not participate in these talks.

[825] Articles 3-6, 2008 Libreville Agreement, CAR-OTP-2001-0766.

[826] P-2328: CAR-OTP-2099-0165, at 0172, 0215, paras 37, 259, draft translation: CAR-OTP-00000147, at 000008, 000051, paras 37, 259; P-2328: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-046-CONF-ENG, pp. 38, 41; P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-054-CONF-ENG, pp. 25-30; P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-057-CONF-ENG, p. 60.

[827] P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-054-CONF-ENG, pp. 26, 28-29; P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-057-CONF-ENG, p. 60.

[828] P-2328: CAR-OTP-2099-0165, at 0215, para. 259, draft translation: CAR-OTP-00000147, at 000051, para. 259; P-2328: T-128, pp. 45-48; P-2328: T-129, p. 4.

[829] P-0349: T-095, pp. 23-24; P-0291: CAR-OTP-2034-0104, at 0110, paras 22-25; P-0435: CAR-OTP-2017-0036, at 0051, para. 92.

[830] P-0291: T-060, pp. 51-52.

[831] P-0291: T-060, p. 52.

[832] P-0291: T-060, p. 49; P-0291: CAR-OTP-2034-0104, at 0110, para. 26.

suppress his opposition and ensure his re-election.[833] Nicolas Tiangaye described in some detail how, in the 2011 parliamentary elections, François Bozizé interfered with the voting and suppressed any opposition to his political party, the *Kwa Na Kwa* (the 'KNK').[834] Nicolas Tiangaye stated that all the opposition leaders lost in the first round of the elections while all of Bozizé's family members were elected.[835] Nicolas Tiangaye and P-0884 gave evidence that after the 2011 elections, some politicians called for the cancellation and reorganisation of these elections and formed a political movement called the FARE.[836]

404. P-0884 stated that the leaders of FARE met with the leaders of the rebel movements in 2012, calling for an alliance to overthrow François Bozizé.[837] Witnesses recalled that these different rebel movements, including some of those discussed above, came together to form a group and named it 'Seleka', meaning 'union', 'coming together', 'coalition', 'fusion'.[838] There is evidence that by August 2012, the Seleka consolidated and comprised, *inter alia*, the members of the UFDR, both wings of the CPJP, and CPSK.[839]

405. Witnesses generally described this coalition as having regional (northern), religious

[833] P-2328: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-046-CONF-ENG, pp. 13, 37-42; P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-054-CONF-ENG, pp. 25-30.
[834] P-0291: CAR-OTP-2034-0104, at 0110, para. 22-25; P-0291: T-060, pp. 39-44, referring to article, CAR-D33-0014-0204. *See also* P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-054-CONF-ENG, pp. 25-30. *See also* regarding the name of the political party: P-0834: CAR-OTP-2048-0310, at 0314, para. 17; P-0100: CAR-OTP-2027-2535, at 2540-2541, paras 32-33.
[835] P-0291: CAR-OTP-2034-0104, at 0110, para. 22-25. *See also* P-2328: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-046-CONF-ENG, p. 39.
[836] P-0291: CAR-OTP-2034-0104, at 0110, para. 22-25; P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-054-CONF-ENG, pp. 25-30.
[837] P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-054-CONF-ENG, pp. 22-23.
[838] P-0338: T-017, p. 47; P-0342: T-123, p. 48. P-0349: T-095, p. 27, referring to speech by Mike Jobbins to the US Congress, CAR-OTP-2081-0496.
[839] P-0291: T-061, pp. 9-10, 14-17, 20-22, referring to an audio recording, CAR-D33-0002-0107, at 00:00-01:15, transcript of recording, CAR-D33-0014-0202, translation, CAR-D33-0014-0203; P-0291: CAR-OTP-2034-0104, at 0113, para. 51; P-2328: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-046-CONF-ENG, pp. 49-51; P-2563: T-112, pp. 10-11; P-2563: T-114, p. 33; P-0349: CAR-OTP-2075-0812, at 0816, para. 20. *See also* P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-054-CONF-ENG, pp. 31-32. The Defence argues that just because the coalition gave itself a name does not mean that it had an organisational structure: Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 23. For the avoidance of doubt, the Chamber's analysis of the organisation structure of the Seleka does not consider the meaning of its name.

(Muslim)[840] and ethnic (including the Goula, the Rounga, and the Sara, among others)[841] commonalities, as well as a shared commitment to defending the interests of the northern regions of CAR.[842] Defence witness, P-0035 testified that they coalesced around the ideology of wanting to overthrow François Bozizé and seize power.[843] Witnesses stated that some Chadian and Sudanese mercenaries, who had been Bozizé's *Libérateurs* in the 2003 coup, also joined the Seleka.[844] They recalled the Seleka composition generally in 2012 and 2013 as a mixed group with people from CAR, the DRC, Chad and Sudan.[845] However, Jean-Jacques Demafouth explained that, although there were foreigners among the Seleka, for the most part they were Central Africans, who had lived in regions that had been completely cut off from the rest of the country and were heavily influenced by the neighbouring countries of Chad and Sudan, to such an extent that people in Bangui did not recognise them as Central Africans and mistook them for foreigners.[846]

406. There is evidence that in late 2012, and at least as of early December 2012, the Seleka were making military preparations in the north to advance on Bangui, including

[840] P-0291: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-051-CONF-ENG, pp. 75-76; P-2328: prior recorded testimony in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-046-CONF-ENG, p. 53; P-2269: CAR-OTP-2111-0336, at 0339, para. 22; P-2232: T-102, p. 10. There is evidence that there were also Christians within Seleka ranks, some of whom joined later: P-2251: CAR-OTP-2093-0045, at 0049, para. 25; P-1339: T-133, pp. 25-26; P-2328: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-046-CONF-ENG, p. 53. P-0834 also referred to there being Christian Seleka soldiers when the Seleka were later based in Bangui between April and June 2013: P-0834: CAR-OTP-2048-0310, at 0318, para. 49.
[841] P-0291: T-061, p. 15; P-2328: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-046-CONF-ENG, p. 53; P-0881: CAR-OTP-2032-0682, at 0687, para. 32; P-0338: T-017, p. 49; P-0338: T-019, p. 63; P-0547: T-012, p. 29; P-2269: CAR-OTP-2111-0336, at 0339, paras 22-23; P-2105: T-023, pp. 26-27; P-0435: CAR-OTP-2017-0036, at 0042, para. 33; P-2328: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-046-CONF-ENG, pp. 51-52 (stated that the Seleka included the Goula, Rounga, Banda, and Mandja). *See also* report of P-2926 for the Prosecution, CAR-OTP-2127-4289, at 4292-4293. Witnesses gave evidence that Michel Djotodia and Zakaria Damane were Goula: P-0349: CAR-OTP-2075-0812, at 0820, para. 43; Nouradine Adam and Abdoulaye Hissène were Rounga: P-0291: CAR-OTP-2034-0104, at 0113, para. 51; Moussa Dhaffane was Borno: P-0349: CAR-OTP-2075-0812, at 0820, para. 43.
[842] P-0349: T-095, p. 27, referring to Speech by Mike Jobbins to the US Congress, CAR-OTP-2081-0496.
[843] P-0035: CAR-D33-0015-4474, at 4479.
[844] P-0884: T-077, p. 30; prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-054-CONF-ENG, pp. 47-48; P-2328: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-046-CONF-ENG, p. 25.
[845] P-2232: T-102, p. 9; P-0884: CAR-OTP-2072-1356, at 1361; P-1297: CAR-OTP-2039-0167, at 0170, para. 21; P-0342: T-123, p. 48; P-0100: CAR-OTP-2027-2535, at 2541, 2544, paras 35, 52; P-1420: CAR-OTP-2040-0811, at 0819, para. 48; P-0435: CAR-OTP-2017-0036, at 0042, para. 33; P-2328: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-046-CONF-ENG, pp. 49-51, 53 (stated that when the Seleka first formed, the composition in Birao or Tiringoulou was predominantly members of the UFDR, young people and persons integrated from Chad and Sudan; whereas in the region of Vakaga, the Seleka were comprised predominantly of Central African people who only spoke Arabic, including people from Sudan and Chadians).
[846] P-2328: T-128, pp. 20-22.

recruitment, arming, training with weapons and preparing a plan to advance on Bangui.[847] P-0349 stated that before the march on Bangui, the Seleka were under a single command, had a Chief of Staff (Aubin Issa Issaka) with a deputy (Abdel Karim Moussa), an Assistant Chief of Staff in charge of operations (Arda Hakouma), and several military advisors (including Al Khatim and Moussa Assimeh).[848]

407. Witnesses recalled that, by 10 December 2012, the Seleka began advancing south from the northern provinces, taking over Birao, Bria, Ndele, Kaga Bandoro, Bambari, as well as other locations.[849] The evidence also shows that the various units/sections within the Seleka were headed by chiefs, who were communicating between each other and transmitting military instructions during their advance southward.[850]

408. There is evidence that the Seleka rapidly took over the 'entire north of the CAR, as far as the centre' by retrieving the FACA's military equipment.[851] There is also evidence to

[847] P-2105, who joined the Seleka in [REDACTED] towards the end of 2012 with some friends, some of whom were former FACA, spoke about [REDACTED] informing them of preparations for the descent on Bangui; he recalled receiving military training on how to use weapons, discipline and respecting hierarchy, and combat resistance; he stated that his group prepared in advance the vehicles, weapons, ammunition and the plan; when asked specifically about the plan to descend to Bangui, P-2105 stated that they were expected not to abuse the population, focus on their target, 'namely, the FACA', and to try to advance as fast as possible; as regards weapons, P-2105 testified that he and others in his group had an AK-47: P-2105: T-023, pp. 7-9, 16-17, 22. P-0435, who was [REDACTED] in Bangui at the time, recalled [REDACTED] about the Seleka forming around Bria and being warned by [REDACTED] that people were training with weapons and preparing to fight; the Seleka were also training around Ndele and Birao and advancing from these locations (those from Bria to Bambari and those from Ndele and Birao to Kaga-Bandoro): P-0435: CAR-OTP-2017-0036, at 0042, para. 34.

[848] P-0349: CAR-OTP-2075-0812, at 0818, para. 29. *See also* addendum to P-0349's prior recorded testimony, CAR-OTP-00036703, at 0002.

[849] [REDACTED]: P-2563: T-112, p. 16-17. [REDACTED]: P-2105: T-023, p. 23, referring to map, CAR-OTP-2070-0268 with annotated version, CAR-REG-0002-0035. P-2105 recalled that the Seleka were advancing towards Bangui in columns and identified the route taken by Seleka General Alkhatim and his group on the same map referenced above: P-2105: T-023, pp. 35-36; P-2105: T-026, p. 41. Nicolas Tiangaye recalled the Seleka attacking Ndele: P-0291: CAR-OTP-2034-0104, at 0113, para. 52. P-0481, [REDACTED], described the Seleka leaving Ndele, going through Bamingui, Mbré and Bandoro, before arriving in Sibut, with others joining from Ippy and Bambari, and advancing through Bria and Grimari: P-0481: T-072, p. 12; P-0481: T-073, p. 18. *See also* P-2328: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-049-CONF-ENG, p. 79; P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-054-CONF-ENG, p. 23.

[850] P-2105, [REDACTED], acknowledged there being many group leaders at this time because the Seleka coalition was made up of a number of groups and there was no union between the men, but recalled that the leaders would meet, communicate, and transmit orders on what they had to do; he stated that while he was not told the name of all the other leaders, he was told about the instructions that had come from Nouradine Adam; P-2105 described the Seleka commanders supporting and reinforcing each other's positions with arms, ammunition, and means of transport during their advance southward; he testified that each Seleka member travelled in a group with the leader: P-2105: T-023, pp. 18, 24-25, 27; P-2105: T-026, p. 41. P-2105 and P-2563 recall Seleka commanders communicating with each other on Thuraya satellite telephones in the context of their advance to Bangui: P-2105: T-023, p. 42; P-2563: T-112, pp. 25-26. *See also* P-1167: T-034, p. 61.

[851] P-2328: CAR-OTP-2099-0165, at 0216, para. 263, draft translation: CAR-OTP-00000147, at 000052, para. 263. The International Commission of Inquiry on CAR considered that by 29 December 2012, the Seleka

show that along the route from the northern regions to Bangui, the Seleka took over public buildings and resources, including schools and police stations, and looted churches.[852] P-0966, who was in [REDACTED], a village located on the Bogangolo-Damara axis, stated that when François Bozizé was still in power, 'there were armed Peuhl and Seleka' that travelled through his village to attack Bangui; the Seleka attacked his village; and the witness's group defeated the Seleka and seized their weapons like Kalashnikovs, grenades and AK-47s.[853] There is insufficient evidence to establish that this defensive action against the Seleka was replicated in other areas or was in any way linked to or representative of a coordinated response to the Seleka's advance by self-defence groups.

409. Witnesses testified that, for the most part, the FACA withdrew and there was limited fighting during the Seleka progression towards Bangui.[854] There is evidence of clashes in Bambari between the Seleka and the State armed forces after the Seleka captured the town and the members of the presidential security launched a counter-offensive against the Seleka.[855] The Chamber also notes a press release dated 23 December 2012 issued by the Seleka ('CPSK-CPJP-UFDR-FDPC'), referring to the occupation of various

had total control of almost half of the country, including the regions of Vakaga, Bamingui-Bangoran, Haute-Kotto, Ouaka, Nana Grébizi and Kémo-Gribingui. It added that in every region over which the Seleka 'took control, they drove out the official administration and exercised *de facto* political power'. *See* UN Commission of Inquiry Preliminary Report June 2014, CAR-OTP-2001-1075, at 1088, paras 45-46.

[852] For example, Jean-Jacques Demafouth stated that, when the Seleka captured the town of Bria enroute to Bangui, they systematically looted anything belonging to Christian churches along the way, looking for money, food, clothing, and the vehicles of the priests; their objective was not to try to destroy these places of worship but to try and find material goods. Jean-Jacques Demafouth also stated that, as the Seleka made their way to Bangui, they used schools in Grimari, Bambari, Sibut and Bria to accommodate their members. *See* P-2328: CAR-OTP-2099-0165, at 0208-0209, paras 232, 235, draft translation: CAR-OTP-00000147, at 000044-000045, paras 232, 235. P-0435 stated that, as the Seleka advanced, they would attack police stations and disarm them: P-0435: CAR-OTP-2017-0036, at 0042, para. 35.

[853] P-0966: CAR-OTP-2031-0241, at 0244, paras 17-20. P-0966 was [REDACTED] in his village, directing operations to attack the Seleka in the bush. P-0966 also stated that they handed over the weapons seized from the Seleka to Francois Bozizé, Josué Binoua, and Touadera. P-0966 recalled another Seleka attack on his village on [REDACTED] April 2013 which he thought 'was in retaliation for this incident' (paras 19-20). For the location of [REDACTED], *see* map annotated by P-0966, CAR-OTP-2031-0266.

[854] P-2563: T-112, pp. 9-10, 16-17; P-2563: T-114, p. 45, referring to CAR-OTP-2118-9169, at 9182-9183, lines 457-462. P-2563, [REDACTED], recalled that most of the time the FACA would flee or withdraw and did not recall fighting as such; this also happened when [REDACTED]. Nicolas Tiangaye recalled the Seleka attacking Ndele and advancing to Bangui without facing any resistance: P-0291: CAR-OTP-2034-0104, at 0113, para. 52. P-0435 stated that sometimes the military men would have no weapons left and would flee because they were defenceless and sometimes they would sell their weapons because they were not being paid; the witness recalled a lot of discontentment amongst the military at the time: P-0435: CAR-OTP-2017-0036, at 0042-0043, para. 35.

[855] P-0349: CAR-OTP-2075-0812, at 0819, para. 34 [REDACTED]. [REDACTED] also recalled attending a meeting in [REDACTED] 'which brought together all Seleka leaders at which the decision to attack Bangui was mooted': [REDACTED].

localities and clashes between the Seleka and the FACA.[856] P-0358, [REDACTED], stated that, in December 2012, the hospital began receiving injured FACA soldiers fleeing from the Seleka in Bria and other targeted areas.[857]

410. Witnesses recalled that during the Seleka advance, Muslims from other regions in CAR, including those in the State armed forces, joined the Seleka, swelling their numbers.[858]

411. Several witnesses – Seleka and non-Seleka alike – gave evidence that during the Seleka advance from the end of 2012 to early 2013,[859] they converged in Sibut and took over the city.[860]

412. The Chamber notes that the events in CAR at this time were reported on by the UN Security Council and the ICRC, and the ICRC qualified the situation in December 2012 as a non-international armed conflict.[861]

413. Some witnesses recalled that the State armed forces and security forces were preparing to counter the Seleka.[862] There is evidence of François Bozizé making speeches that

[856] Press article, CAR-OTP-2101-0520, at 0524.
[857] P-0358: CAR-OTP-2043-0433, at 0435, para. 16.
[858] P-1420: CAR-OTP-2040-0811, at 0814, paras 19-20. P-1420, [REDACTED], gave evidence that approximately 25 of François Bozizé's Presidential Guard who were Muslim (of whom there were approximately 100) broke rank, joining the Seleka in January 2013. P-1420 recalled that certain other FACA who were Muslims joined the Seleka as they advanced between January and March 2013. P-0882, [REDACTED], recalled many Muslims leaving the neighbourhood and joining the Seleka and reappearing with the Seleka when they arrived in Bangui: P-0882: CAR-OTP-2032-0654, at 0658-0659, paras 19, 22-23, 25. *See also* P-0291: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-051-CONF-ENG, pp. 75-76.
[859] P-1167, who [REDACTED], stated that, one day in December 2012, when he arrived in Sibut, motorbike drivers arrived and told him that the Seleka were 12 kilometres away: P-1167: T-034, pp. 41, 49, 53. P-1004 stated that the Seleka rebellion arrived in Sibut in what he believed was early 2013: P-1004: CAR-OTP-2043-0536, at 0538, para. 14. P-2105 marked on a map, CAR-OTP-2070-0268, the routes that different Seleka groups took to converge on Sibut: P-2105: T-023, p. 23-27, referring to annotated map, CAR-REG-0002-0035. P-0481 recalled that the Seleka came from Ndele, Bria, Sam Ouandja, Alindao, Ippy, Bambari and Grimari to Sibut, and waited there for people coming from Ndele, Sido, Ouandago, Bandoro, Ndomété and they rallied at Dékoa, and they met at *carrefour*, which is a city in Sibut: P-0481: T-073, p. 18. P-1263, who was in the centre of Sibut when the Seleka entered, recalled being able to see the Seleka enter through two different roads – from Bambari and Bandoro – and gathering at the centre of Sibut: P-1263: T-104, p. 36.
[860] P-1263 recalled that the Seleka met with no resistance from the FACA in Sibut as all the soldiers, including the gendarmes, had left a day before and the Seleka were able to take over without any resistance; he stated that when they got there, the Seleka set up a base behind the police station in Sibut; they damaged the solar panel to generate electricity for the police station, cut off the telephone lines, and sold fuel from the gas station to the inhabitants: P-1263: T-104, pp. 35, 39, 52; P-1263: T-105, pp. 30-31.
[861] UNSG Report May 2013, CAR-D30-0004-0102, at 0102-0103, paras 1-2; ICRC Annual Report 2012, CAR-D33-0014-3215 (stating that in December 2012, the Seleka, an alliance of armed groups, took control of the north and centre of the country).
[862] For example, P-2269, [REDACTED] stated that, on his route, he encountered barricades set up by the police, who knew that the Seleka were approaching; he stated that the police were being strict in their checks to avoid letting people into Bangui who wanted to support the Seleka: P-2269: CAR-OTP-2111-0336, at 0339, para. 24.

appeared to be aimed at mobilising the population against the Seleka, claiming, *inter alia*, that the rebels were foreigners and wanted to take the capital; they were coming to kill and there was a need to be alert, for the youth to stand up and fight.[863]

414. There is limited evidence that some of the youth groups associated with the KNK, COCORA and COAC were mobilising at this time.[864] The Chamber notes that there is no indication in this evidence of any actions attributable to the youth associated with

P-0481 recalled being told by FACA soldiers [REDACTED] that when the Seleka reached Sibut, the FACA were also placed in Damara: P-0481: T-073, p. 19.

[863] P-1967: CAR-OTP-2069-0498, at 0501-0502, paras 16-20. P-1967 recalled hearing several public speeches by François Bozizé at the time, in which Bozizé claimed that the rebels were foreigners and wanted to take the capital; there were no Central Africans among them; he encouraged the youth to 'watch all foreigners and those with the "grand boubous" (a reference to Muslims); Bozizé claimed that the rebels had to retreat where they came from, to initiate negotiations, adding that the rebels were coming to kill them and there was a need to be alert. P-1967 stated that many people audio recorded this speech on their phones. P-1967 had also attended the event at the stadium a few months earlier, where François Bozizé gave a similar speech: P-1967: CAR-OTP-2069-0498, at 0502, para. 21, referring to the recording of a speech in Sango, CAR-OTP-2069-0602. *See also* a speech by François Bozizé on 27 December 2012, CAR-OTP-2000-0630 from 00:25:07 to 00:27:38, transcript and translation, CAR-OTP-2060-0623 and CAR-OTP-2060-0678, at 0689, lines 387-402. As regards the use of the term 'foreigner', the Chamber recalls Jean-Jacques Demafouth's evidence discussed above.

[864] There is evidence that COCORA became active in late 2012 in organising demonstrations and security measures against the Seleka in Bangui. P-0884 identified Levy Yakete from the KNK as the president of COCORA and recalled COCORA organising demonstrations against the Seleka in Bangui at the end of 2012 and beginning of 2013; he stated that for about three months before the Seleka took over Bangui, COCORA erected roadblocks in Bangui, searching vehicles coming in from the provinces: P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-054-CONF-ENG, pp. 33-36. The Chamber notes the audio recording of a radio address by François Bozizé dated 27 December 2012; at the same event, an unidentified speaker proclaimed that they would set up 'COCORA cells' in all villages in CAR and that if the youth was still alive, 'foreigners will never take power in our country': speech by François Bozizé on 27 December 2012, CAR-OTP-2000-0630, transcript and translation, CAR-OTP-2060-0623 and CAR-OTP-2060-0678, at 0689, lines 387-403. The Prosecution relied, *inter alia*, on this radio address in December 2012, CAR-OTP-2000-0630 and audio recording of Michel Djotodia's speech, CAR-OTP-2042-0747 to argue that youth groups such as COCORA were 'formed and armed by Bozizé's associates prior to the takeover of Bangui with the aim of resisting the Seleka: Prosecution Closing Brief, ICC-01/14-01/21-1027-Red, para. 20. P-2232, who was shown a document [REDACTED] containing a [REDACTED], stated that this movement was under way in 2012 [REDACTED] and when the Seleka started its rebellion, they started to mobilise the youth in order to protest against the Seleka, and they worked until 2013: P-2232: T-103, pp. 13-15, referring to list, CAR-OTP-2100-2668. The Chamber notes that the Prosecution did not refer to this list in its closing brief, nor did it ascribe any role to the individuals listed therein. Jean-Jacques Demafouth testified that Levy Yakete was the head of COCORA and that it had the backing of François Bozizé. Jean-Jacques Demafouth also acknowledged the emergence of COCORA around the same time in Bangui as P-2232 did and used the term 'militia' to refer to it; Jean-Jacques Demafouth recalled that some of its members were armed with machetes and weapons of war supplied by the Bozizé Government; Jean-Jacques Demafouth believed that Levy Yakete was the one distributing the weapons and machetes to them, based on statements Yakete himself had made on the radio; Jean-Jacques Demafouth recalled witnessing COCORA members carrying weapons that looked like Kalashnikovs and machetes but he never saw the distribution of the weapons personally. Jean-Jacques Demafouth also testified that during the Libreville talks in January 2013, Levy Yakete threatened that he had put COCORA on alert and that, if the Seleka approached Bangui, 'COCORA were ready to defend Bozizé's regime'. At the same time, Jean-Jacques Demafouth stated that COCORA was not an armed group and was not considered as such. *See* P-2328: CAR-OTP-2099-0165, at 0172-0173, paras 41-42, draft translation: CAR-OTP-00000147, at 000008-000009, paras 41-42; P-2328: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-046-CONF-ENG, pp. 56-57, 61, 63; P-2328: T-129, pp. 6-12, referring to articles, CAR-D33-0014-1439, CAR-D33-0014-1572; recording, CAR-OTP-2000-0670, transcript and translation, CAR-OTP-2006-0669, CAR-OTP-2006-0747. *See also* audio, CAR-OTP-2042-0747, at 00:04:13, translation, CAR-OTP-2130-9389, at 9391, line 44.

COCORA and COAC in the clashes during the Seleka advance on Bangui or credible information of weapons being distributed to the youth associated with COCORA in Bangui to combat the Seleka.

415. The evidence before the Chamber is that the situation was such that political dialogue was initiated in January 2013 in N'Djamena, whereby the heads of states of the ECCAS first decided, *inter alia*, the setting up of a 'red line' at Damara,[865] demarcating the Seleka and the FACA, who were required to maintain their respective positions.[866] P-2105 recalled the ECCAS placing multinational regional forces in Damara, interposed between the Seleka and the FACA, representing the red line.[867]

416. There is evidence that on 11 January 2013, further political negotiations took place at a second summit in Libreville, Gabon between the Bozizé Government and the Seleka, under the auspices of ECCAS, which resulted in an agreement, *inter alia*, on power sharing between the Bozizé Government, the Seleka, and the individuals from the democratic opposition at the time (the '2013 Libreville Agreement').[868] This agreement was signed by Michel Djotodia (for the 'Seleka – CPJP, UFDR, UFR,[869] CPSK'), and

[865] Map, CAR-OTP-2070-0268. Damara is between Sibut and Bangui, approximately 75 kilometres from Bangui. P-0342 described Damara as the 'door to Bangui' and affirmed that it was possible to get from Damara to Bangui in less than 50 minutes: P-0342: T-124, p. 4.

[866] P-0291: CAR-OTP-2034-0104, at 0113, para. 53. Nicolas Tiangaye recalled a summit in N'Djamena (Chad) in January 2013 where the ECCAS heads of states decided that Damara was the red line and that the Seleka would not progress any further. P-2105, [REDACTED], explained that Damara represented 'the red line' because FACA were not permitted to cross Damara to attack the Seleka in Sibut, similarly, the Seleka were not permitted to cross Damara to attack the FACA in Bangui; and this is why, ECCAS had placed their forces in Damara interposed between the Seleka and the FACA: P-2105: T-023, pp. 31, 34. P-2105 marked the red line at Damara on a map, noting it with a black dot or circle and the number 10: P-2105: T-023, p. 35, referring to map, CAR-OTP-2070-0268 with annotated version, CAR-REG-0002-0035. *See also* P-0481: T-073, p. 19; P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-054-CONF-ENG, pp. 23, 26. P-1263, [REDACTED], recalled crossing 'the red line' in Damara and noticing the presence of FACA soldiers 'after Damara': P-1263: T-104, pp. 31, 42. P-2563, [REDACTED], recalled that representatives of the Seleka went to Libreville to sign agreements so the Seleka could put their weapons down and not go into Bangui: P-2563: T-114, p. 45. [REDACTED] Seleka forces from Damara to Sibut where they moved for the purposes of negotiation, [REDACTED]. *See also* P-2232: T-102, pp. 9-10.

[867] P-2105: T-023, pp. 31, 34. Nicolas Tiangaye testified that these forces were called the FOMAC and composed of soldiers from Gabon, Cameroon, Congo and Chad: P-0291: CAR-OTP-2034-0104, at 0115, para. 69; P-0291: T-062, pp. 64-65.

[868] P-0291: CAR-OTP-2034-0104, at 0113-0114, paras 54-55, 57; 2013 Libreville Agreement, CAR-OTP-2054-1346, signed between the CAR presidential majority, the democratic opposition (represented by Nicolas Tiangaye), the Seleka coalition, politico-military non-combatants, and the representatives from the CEEAC and the Republic of Congo. *See also* P-0349: CAR-OTP-2075-0812, at 0818, para. 28; UNSG Report May 2013, CAR-D30-0004-0102, at 0102-0103, paras 2-4; BINUCA Report May 2013, CAR-OTP-2034-0226, at 0234, para. 18; P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-054-CONF-ENG, pp. 23-24, 26, 32; P-2328: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-046-CONF-ENG, pp. 64-66; P-2328: CAR-OTP-2099-0165, at 0216, para. 264, draft translation: CAR-OTP-00000147, at 000052, para. 264.

[869] *See* above para. 398, n. 819.

Abdoulaye Hissene (for 'politico-military non-combatants – CPJP, MLCJ, FDPC').[870] According to the 2013 Libreville Agreement, the parties also agreed to the establishment of a government of national unity for a period of one year and a demobilisation, disarmament and reintegration programme for members of the Seleka forces.[871] It was also agreed that François Bozizé, the Prime Minister and other members of the government could not be candidates in the next elections.[872] Jean-Jacques Demafouth, who attended the Libreville negotiations,[873] testified that the 2013 Libreville Agreement required a reorganisation of the security forces, a reformation of the judicial system, and the undertaking of economic and social reforms.[874] Jean-Jacques Demafouth stated that the intent was to establish a 'government of understanding' comprising 'Bozizé's people' and the Seleka, with a Prime Minister designated by the opposition.[875]

417. There is evidence that the Seleka commanders made some preparations for their members to participate in a potential demobilisation programme.[876]

418. There is also evidence that François Bozizé followed through on certain commitments made as part of the 2013 Libreville Agreement. For example, witnesses testified that, on

[870] 2013 Libreville Agreement, CAR-OTP-2054-1346, at 1349.
[871] P-0291: CAR-OTP-2034-0104, at 0113-0114, paras 54-55, 57; 2013 Libreville Agreement, CAR-OTP-2054-1346, signed between the CAR presidential majority, the democratic opposition (represented by Nicolas Tiangaye), Michel Djotodia (on behalf of the 'Seleka – CPJP, UFDR, UFR, CPSK'), Abdoulaye Hissene (for 'politico-military non-combatants – CPJP, MLCJ, FDPC'), and the representatives from the CEEAC and the Republic of Congo. *See also* P-0349: CAR-OTP-2075-0812, at 0818, para. 28; UNSG Report May 2013, CAR-D30-0004-0102, at 0102-0103, paras 2-4; BINUCA Report May 2013, CAR-OTP-2034-0226, at 0234, para. 18; P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-054-CONF-ENG, pp. 23-24, 26, 32; P-2328: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-046-CONF-ENG, pp. 64-66; P-2328: CAR-OTP-2099-0165, at 0216, para. 264, draft translation: CAR-OTP-00000147, at 000052, para. 264.
[872] 2013 Libreville Agreement, CAR-OTP-2054-1346, at 1348 (article 6). *See also* P-0291: CAR-OTP-2034-0104, at 0114, para. 57; P-2328: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-046-CONF-ENG, pp. 66-67.
[873] P-2328: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-046-CONF-ENG, pp. 64-65; P-2328: T-129, pp. 15-17.
[874] P-2328: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-046-CONF-ENG, p. 67.
[875] P-2328: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-046-CONF-ENG, pp. 65-67. According to Jean-Jacques Demafouth, François Bozizé had lost the support of the international community and 'everyone wanted him out' and knew that the Seleka had the upper hand. *See also* P-0291: CAR-OTP-2034-0104, at 0114, para. 56.
[876] *See, for example*, [REDACTED], who was waiting in Sibut during the Libreville negotiations and recalled that every Seleka colonel in Sibut had to identify members in order to integrate two to three thousand members into the FACA; a selection was made and a bonus was paid to those selected; asked how he knew this, [REDACTED] stated that 'every colonel, after the meeting of the high command, would have to report to their men the behaviour they had to adopt' and that 'it was thanks to my leader that I was aware of what had happened and of the decisions that had been taken': [REDACTED]. Similarly, P-2563 did not recall the exact dates of the political talks in Libreville but confirmed that the colonels in Sibut wanted to identify their members in order for them to join the Central African army; [REDACTED]: P-2563: T-114, pp. 45-47.

17 January 2013, François Bozizé appointed Nicolas Tiangaye (P-0291), who was heading the democratic opposition at the time, as the Prime Minister of CAR.[877] Testimonial and documentary evidence shows that François Bozizé also subsequently appointed several Seleka leaders from the CPJP and UFDR to important positions in the government in February 2013; for example, Michel Djotodia as the Deputy Prime Minister and Minister of National Defence, Djono Ahaba as Minister of Geology, Mineral Exploration and Hydraulics, and Mohamed Moussa Dhaffane as the Minister of Water, Forests, Wildlife and Fisheries, the Environment and Ecology.[878]

419. However, there is evidence that soon thereafter, François Bozizé signalled that certain other terms of the 2013 Libreville Agreement would not be respected. For example, there is evidence (and this is agreed between the parties) that he announced his intention to run for president in the next elections on 15 March 2013 during a ceremony celebrating his 10 years in power.[879] Witnesses recalled that the demobilisation programme promised by the 2013 Libreville Agreement did not take place at the time.[880] Jean-Jacques Demafouth stated that François Bozizé sought military support from South Africa and deployed

[877] P-0291: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-051-CONF-ENG, p. 10; P-0291: T-061, p. 18; P-2328: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-046-CONF-ENG, p. 66; P-2328: CAR-OTP-2099-0165, at 0216, para. 264, draft translation: CAR-OTP-00000147, at 000052, para. 264. *See also* presidential order, CAR-OTP-2101-1895, at 1895-1896; Jean-Jacques Demafouth stated that it was FARE and the Seleka that had selected Nicolas Tiangaye (P-0291) as the Prime Minister.

[878] Presidential order, CAR-OTP-2101-1895, at 1896-1897; P-0349: CAR-OTP-2075-0812, at 0818, para. 28. *See* P-0342: T-123, p. 48, referring to Djono Ahaba as a Seleka leader. P-0291: T-061, pp. 22-26, referring to presidential order, CAR-OTP-2101-1895, identified the following Ministers as being representatives of the Seleka: Christophe Gazam Betty (Minister of Communication, Promotion of Civic Culture and National Reconciliation); Amalas Amlas Haroun (Minister of Commerce and Industry); Abakar Sabone (Minister of Development of Tourism and Handicrafts); André Ringui-Le-Gaillard (Minister of Urbanism).

[879] Agreed facts, ICC-01/14-01/21-448-AnxA, no. 18. P-0884 recalled that François Bozizé gave a speech at the stadium on 15 March to commemorate his 10 years as the head of CAR in Bangui, during which he indicated his intention to run again as President and discussed the difficult living conditions facing the population in Ouaka, Basse-Kotto, Haute Kotto, Bamingui-Bangoran and Vakaga: P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-054-CONF-ENG, pp. 39-40. Nicolas Tiangaye recalled hearing this speech over the radio: P-0291: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-051-CONF-ENG, pp. 17-18; P-0291: CAR-OTP-2034-0104, at 0114, para. 58.

[880] *See, for example*, [REDACTED] who recalled being identified for the purposes of a demobilisation programme in Sibut but stated that this did not actually take place at the time; according to him, this was one of the reasons why the Seleka returned to take power in Bangui: [REDACTED]. Nicolas Tiangaye acknowledged that integration of some Seleka members into the State armed forces through a DDR process was contemplated as part of the Libreville agreements but the DDR did not start at the time because of lack of funding from the international community. He recalled that it was also inconceivable to directly recruit the Seleka members identified at the time into the State armed forces because that posed several problems in terms of funding, resources, and national security; a committee had to be convened to verify the recruitment of these members for an eventual integration into the ranks of the State armed forces, but that committee did not appear. *See* P-0291: T-061, pp. 34, 41-43.

South African forces in Bangui for his protection.[881]

420. Jean-Jacques Demafouth gave evidence that these circumstances pushed the Seleka to come to an agreement to enter Bangui.[882] There is evidence that in early March 2013, Seleka leaders, some of whom had recently been appointed ministers by virtue of the 2013 Libreville Agreement, including Michel Djotodia, met in Sibut.[883]

421. There were reports of Michel Djotodia and the other four government ministers representing the Seleka being taken 'hostage' by the Seleka at the time of this meeting in Sibut; however, the evidence also suggests that this was a strategy to facilitate the Seleka advance on Bangui, which at this stage was considered unavoidable.[884]

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[881] P-2328: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-046-CONF-ENG, pp. 67-68. Jean-Jacques Demafouth stated that, from February 2013, Bozizé refused to implement the recommendations from Libreville and instead reinforced his position by receiving military support, notably from the South African forces, and 'trusted the South African forces entirely to help protect his regime'. P-2105 recalled the South African forces being stationed in PK10, close to François Bozizé's house: P-2105: T-023, pp. 31-33, 36. *See also* P-0291: T-061, pp. 31-32, 35; P-0291: CAR-OTP-2034-0104, at 0115-0116, paras 66, 70.

[882] P-2328: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-046-CONF-ENG, p. 68.

[883] A driver for the Seleka, recalled receiving a call about returning to Sibut because Michel Djotodia was to come to meet with the officers and he drove late '[REDACTED]' to this meeting. Although the witness did not attend the meeting himself, he testified that he was informed by a soldier afterwards that Michel Djotodia had said that after signing the Libreville peace agreement, he was appointed as Minister of Defence but that, '[o]nce he got to Bangui, Bozizé did not respect the terms of the agreement' and appointed someone else as Deputy Minister and that, 'as a result, they should descend into Bangui and take power': [REDACTED]. [REDACTED] stated that, before the Seleka departed to take over Bangui, Michel Djotodia took part in a meeting at a school with Seleka chiefs, including Colonel Mahamat Saleh, General Ada, General Mahamat Sallet Djouma after which they were informed of the decision to advance on Bangui: [REDACTED]. The Chamber also notes [REDACTED].

[884] Nicolas Tiangaye testified that he travelled to Damara in early March 2013 to take stock of the security situation in the country, accompanied by the general in charge of CAR armed forces and that of the Seleka and noted that the Seleka position was clear and they were confident that they were going to take Bangui. Commenting on press articles concerning the Seleka holding certain Ministers in Sibut, Nicolas Tiangaye testified that in reality the armed groups had already decided to break through the Damara red line and this mission was just an excuse to take hold of the principal leaders of the Seleka ahead of the offensive that was going to start on 22 March 2013: P-0291: T-061, pp. 31-32. [REDACTED] testified that a strategy was put in place in Sibut to attract the Seleka leaders who were part of the government following the Libreville agreements; some of them would be taken hostage in Sibut, which would facilitate the arrival of the Seleka in Bangui; he stated that Michel Djotodia and the 'Interior Minister' (Minister of Public Security) at the time came to Sibut and were taken hostage; the Minister of Public Security was later freed and the Seleka Ministers stayed in order to plan the descent on Bangui: [REDACTED]. [REDACTED]. Nicolas Tiangaye recalled being able to speak to Michel Djotodia on the phone around this time and then there being no more contact; however, he considered that the story about being taken hostage might have been a scam to avoid pressure from the international community and to prepare for an attack on Bangui: P-0291: CAR-OTP-2034-0104, at 0115, para. 63; P-0291: T-061, pp. 31-32. *See also* P-0342: T-124, pp. 7-8; P-0342: T-125, p. 40; P-2232: T-102, p. 10. The Chamber considers that the fact that this was not a genuine hostage-taking situation can also be inferred from the prominent positions occupied by a number of these Seleka Ministers (Michel Djotodia, Djono Ahaba, Moussa Dhaffane, Christophe Gazambeti and Amalas-Amalas Haroune) in the *de facto* government set up after the Seleka took power. *See* P-0291: T-061, pp. 54-55, 57, referring to Constitutional (Provisional Organisation of State Powers) Act no. 2 of 26 March 2013, CAR-OTP-2004-1597, at 1605. The Chamber also notes Jean-Jacques Demafouth's opinion that at this stage, the Bangui takeover was 'actually unavoidable': P-2328: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-046-CONF-ENG, p. 67.

422. The Chamber notes that none of the witnesses who testified about this meeting attended it themselves and they could not describe what was discussed.[885] Nonetheless, the evidence before the Chamber is that the Seleka commanders decided immediately thereafter to continue their advance towards Bangui,[886] with witnesses recalling that the Seleka crossed the red line and marched from Damara to Bangui following this meeting.[887]

423. [REDACTED] Michel Djotodia was in contact with the Seleka forces marching on Bangui and the Seleka assistant chief of staff (Arda) and that the first deputy chief of staff kept Michel Djotodia informed of the towns successively falling under Seleka control.[888] [REDACTED] named the Seleka commanders who were respectively responsible for the Sibut-Damara-Bangui road and the Bossangoa-Bossembele-Bangui road.[889]

424. On the other end, the evidence shows that the Seleka's advance was opposed by the Central African armed forces (the FACA and the Presidential Guard) supported by the South African armed forces. Nicolas Tiangaye testified that François Bozizé was in South Africa with his Deputy Minister of Defence when the Seleka began crossing the red line on 22 March 2013 and that the State armed forces were ill-equipped to confront the Seleka forces.[890] Nicolas Tiangaye recalled asking the army Chief of Staff for information about the military situation at that time and being told that he (the Chief of

[885] *See, for example*, [REDACTED]. *See also* P-1167: T-034, pp. 58-59.
[886] A witness later learnt from late '[REDACTED]' that Nouradine Adam had ordered officers to allocate members in different sections, directing one group to head towards Bangui: [REDACTED]. The Chamber notes that [REDACTED] gave evidence that Nouradine Adam was the only leader who was *not* in Sibut and was elsewhere undergoing medical treatment during this time (*see* [REDACTED]); whereas, [REDACTED] photographs of Sibut show that Nouradine Adam was indeed present in Sibut during this time, although it remains unknown whether Nouradine Adam may have been away for some of these events. Based on the foregoing, the Chamber is satisfied that Nouradine Adam was present in Sibut during these negotiations, with his exact role in the actual discussions and decision-making remaining unknown. Furthermore, having regard to the passage of time since these events, the Chamber considers that this has no impact on [REDACTED]'s credibility concerning the remaining events in Sibut or his credibility generally. *See also* P-2563: T-112, p. 16-19; P-1167: T-034, pp. 43.
[887] *See, for example*, P-0349, [REDACTED] recalled having been informed that 'conditions were ripe for the Seleka to march on Bangui': P-0349: CAR-OTP-2075-0812, at 0820, para. 41. [REDACTED], [REDACTED], stated that the Seleka waited for ECCAS forces to withdraw from Damara, before advancing towards Bangui. He marked in red the route he took from Sibut to Bangui on a map, CAR-OTP-2070-0268; [REDACTED]. *See also* P-1004: CAR-OTP-2043-0536, at 0539-0540, paras 25-28; P-1167: T-034, pp. 43, 58-60. P-2563 stated that there were several sections, and those sections were in different areas, and he did not know what the various chiefs told their members, but the sections took different roads to Bangui, such as the Boali and Bossembele roads, while [REDACTED] took the Damara road so they could advance to PK55: P-2563: T-112, pp. 19-23.
[888] [REDACTED].
[889] [REDACTED].
[890] P-0291: CAR-OTP-2034-0104, at 0115-0116, paras 66, 70.

Staff) was 'just a simple general without troops'; Nicolas Tiangaye's perception was that the general at the head of the army 'had given up'.[891] Nicolas Tiangaye also recalled being told by the Commander of *Forces multinationale de l'Afrique centrale* (the 'FOMAC') that it had around 700 soldiers and it was also not possible for them 'to win this fight against the Seleka, because the Seleka had approximately between 7,000 and 8,000 fighters'.[892] P-1420 stated that the FACA were outnumbered and outgunned and [REDACTED] retreated to PK30.[893]

425. As set out below, P-2105 and P-2563, [REDACTED], recalled fighting at PK55 between the Seleka and the FACA, which was supported by South African forces on 23 March 2013 after FOMAC withdrew from Damara. P-2105 stated that he recalled the FACA being numerous and in a forward position, with the South African forces behind them.[894] P-2105 described how the Seleka launched their assault against the FACA and stated that the fighting 'was intense'; he described how the Seleka commanders coordinated their actions, pushing the South African forces back, and advancing towards Bangui up to PK12 on 23 March 2013, where they stopped for the night.[895] P-2563 testified similarly that when [REDACTED] arrived at PK55, there was very violent and brutal fighting, lasting two or three hours, 'which resulted in the loss of many men'; he recalled the South Africans supporting the FACA and using an airplane to shell the Seleka positions, with the FACA moving forward on foot; he stated that after mortars were fired to drive the airplane away, they could move with much less resistance, advancing to PK12.[896]

426. Witnesses recalled the Seleka regrouping and launching combat operations at PK12, which was less than two kilometres from PK10, where the FACA and South African

[891] P-0291: CAR-OTP-2034-0104, at 0115-0116, paras 68-69; P-0291: T-061, pp. 45-46. Nicolas Tiangaye was also informed by the Commander of FOMAC that the sole means of stopping the Seleka's attack was to use the air force, but Central Africa did not have any operational military planes to deal with this situation. The UN Commission of Inquiry stated that, confronted by the Seleka marching on Bangui, most of the FACA members abandoned their weapons and posts and fled: UN Commission of Inquiry Preliminary Report June 2014, CAR-OTP-2001-1075, at 1088, para. 44.
[892] P-0291: CAR-OTP-2034-0104, at 0115-0116, para. 69; P-0291: T-061, pp. 43-44.
[893] P-1420: CAR-OTP-2040-0811, at 0814-0815, paras 21-22.
[894] P-2105: T-023, p. 31.
[895] P-2105: T-023, pp. 31-33. P-2105 described PK12 as being a town at the entrance to Bangui, 12 kilometres from the town centre. *See also* P-1167: T-034, p. 46.
[896] P-2563: T-112, pp. 19-25. P-1004 recalled that, although he was not present, the Seleka engaged the South African soldiers in a firefight 'at PK45' during which General Banda, also known as General Issa Issaka Aubin, was injured. The Chamber is satisfied, based on the reference to the injury of General Issa, that P-1004 was describing the same clash described by P-2563, which happened at PK55: P-1004: CAR-OTP-2043-0536, at 0538, 0540, paras 16, 26.

forces had regrouped.[897] They recalled the South African forces retreating on the morning of 24 March 2013,[898] leaving the road open for the Seleka to be able to enter Bangui.[899]

427. Witnesses, who were in Bangui at the time, recalled seeing the Seleka arriving armed and dressed in mixed military clothing, some wearing turbans, some in pick-up vehicles mounted with weapons, and others on foot.[900] The Chamber received evidence that the Hôpital Communautaire in Bangui received injured and deceased people in this context, including civilians and Seleka members.[901]

428. Witnesses recalled that François Bozizé fled Bangui to Cameroon as the Seleka were entering Bangui on the morning of 24 March 2013.[902] They stated that a number of the FACA and Presidential Guard accompanied François Bozizé and his family to safety across the CAR border, [REDACTED].[903] Witnesses recalled the members of the State

[897] P-2105: T-023, pp. 24-25, 31-34; P-2105: T-028, pp. 41-42; P-1420: CAR-OTP-2040-0811, at 0815, para. 22; Nicolas Tiangaye, discussing fighting at PK12: T-061, pp. 36-38, 45; P-0291: CAR-OTP-2034-0104, at 0115, para. 67; addendum to P-0291's prior recorded testimony, CAR-OTP-0003611, at 00002; P-0291: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-051-CONF-ENG, p. 76. P-1263, a [REDACTED], stated that when he arrived at PK12, he saw tanks, some FACA soldiers armed with Kalashnikovs and large calibre weapons: P-1263: T-104, p. 43. *See also* BINUCA Report May 2013, discussing fighting at PK15: CAR-OTP-2034-0226, at 0233, para. 14.

[898] P-0349: CAR-OTP-2075-0812, at 0820, para. 41. [REDACTED]. P-1263 was at PK12 when he saw heavily armed FACA soldiers, supported by the South African forces; he testified that on Sunday morning, there were no clashes but one could hear firearms being shot; according to him, the South Africans were withdrawing towards Bangui and the Seleka were following them: P-1263: T-105, pp. 43-45. *See also* P-1420: CAR-OTP-2040-0811, at 0815, para. 23.

[899] [REDACTED]. [REDACTED] recalled that a Seleka General Alkhatim, who was a former member of François Bozizé's Presidential Guard, knew a hill road that led to the Presidential Palace in Bangui, and took this route entering Bangui: [REDACTED]. [REDACTED] group appears to have arrived later and he recalled that there was no longer anyone at the PK12 checkpoint, although it had previously been manned by FACA; he stated that its members started to scatter in different directions, some going to the residence of François Bozizé to loot his possessions, others to the centre of town, others to the police base where the South Africans were; his group recovered military material that had been abandoned: [REDACTED]. P-0342 stated that the Seleka entered Bangui through various roads and on foot through the hills: P-0342: T-124, pp. 27-28, referring to [REDACTED]. A Seleka member recalled leaving Damara for Bangui on 24 March 2013 and arriving the same day: [REDACTED]. *See also* P-2337: CAR-OTP-2104-0411, at 0413, para. 13; P-0881: CAR-OTP-2032-0682, at 0688, paras 33, 35.

[900] *See, for example*, P-0881, [REDACTED], who recalled Bangui being strangely calm with less traffic than usual, seeing a lot of armed Seleka that appeared to be Central African, Sudanese and Chadian: P-0881: CAR-OTP-2032-0682, at 0688, paras 33, 35. P-1970, a [REDACTED], recognised Seleka vehicles, with each vehicle being surrounded by a dozen people on foot. Sometime later, he heard shots being fired, lasting more than 30 minutes, learning later that the Seleka had started shooting once they reached the National Assembly: P-1970: CAR-OTP-2087-9396, at 9399-9400, para. 15. *See also* P-1263: T-104, pp. 45-46. P-0338: T-017, pp. 52-53; P-1967: CAR-OTP-2069-0498, at 0502, para. 23; P-2337: CAR-OTP-2104-0411, at 0413, paras 14-15. [REDACTED].

[901] P-0358: CAR-OTP-2043-0433, at 0440-0441, para. 53; P-1180: CAR-OTP-2043-0483, at 0485, para. 14.

[902] P-0481: T-072, pp. 12-13; P-0349: CAR-OTP-2075-0812, at 0820, para. 41; P-2232: T-102, pp. 10-13. [REDACTED]: P-2232: T-102, p. 11. *See also* P-1420: CAR-OTP-2040-0811, at 0815, para. 22; P-3047: CAR-OTP-2130-6904, at 6906, para. 13; P-2179: T-054, pp. 33-35.

[903] P-2232: T-102, pp. 10-13. *See also* P-2328: CAR-OTP-2099-0165, at 0179, para. 73, draft translation: CAR-OTP-00000147, at 000015, para. 73; P-1289: CAR-OTP-2053-0359, at 0362, para. 19.

armed forces either fleeing, not going to work on that day, or going into hiding, showing that there was no one to confront the Seleka as they made their way into Bangui.[904] Nicolas Tiangaye testified that when the Seleka took power, the State security forces were 'pretty much annihilated' and there was no national army, gendarmerie, or police force to provide for the security and safety of people and goods within CAR.[905]

429. The evidence shows that the final takeover of Bangui took place largely without armed clashes between the Seleka and the FACA. Some witnesses recalled hearing firing from the direction of the Independence Avenue for a limited duration in the morning,[906] but it is unclear to the Chamber whether this was a result of clashes between the forces or celebratory firing.

430. There is evidence that when the Seleka took power on 24 March 2013, Michel Djotodia proclaimed himself President of CAR and set up a *de facto* governing council.[907]

431. Reports from the ICRC as well as the UN concluded that a non-international armed conflict between the Seleka and the Central African armed forces existed during this

[904] *See, for example*, P-2232 recalled seeing soldiers who had taken off their uniforms, hidden their weapons, and sought refuge in the neighbourhoods, and fled as they knew that the Seleka had crossed the red line: P-2232: T-102, pp. 12, 16. [REDACTED], stated that on Sunday morning he heard large explosions and received a call from his 'senior', who told him to return home as Bozizé had already left the country: [REDACTED]. [REDACTED], decided not to return to work because of the tense security situation and was at home with his family when the Seleka took over Bangui: [REDACTED]. [REDACTED] stated that when the Seleka entered Bangui, his superiors in Bangui left their posts, the FACA ceased to function and he was out of work: [REDACTED]. Jean-Jacques Demafouth testified that, 'following the collapse of the regime' in March 2013, all the soldiers of Bozizé's Presidential Guard disappeared from the workforce: P-2328: CAR-OTP-2099-0165, at 0174, para. 49, draft translation: CAR-OTP-00000147, at 000010, para. 49. *See also* P-1737: T-044, pp. 11-12; P-0662: CAR-OTP-2099-0336, at 0339, para. 18; P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-054-CONF-ENG, p. 27; P-0481: T-072, p. 13; P-0035: CAR-D33-0015-4474, at 4482; P-2179: CAR-OTP-2088-2250, at 2252, paras 13-14; P-2179: T-054, pp. 27, 38.

[905] P-0291: T-060, pp. 11-12.

[906] P-1297: CAR-OTP-2039-0167, at 0170, para. 19. P-1970 recalled the morning when the Seleka arrived and stated that he saw around thirty vehicles arriving from the north on Independence Avenue; sometime later, he heard shots being fired, lasting more than 30 minutes, learning later that the Seleka had started shooting once they reached the National Assembly: P-1970: CAR-OTP-2087-9396, at 9399-9400, para. 15. P-2931 stated that he was in [REDACTED] when the Seleka arrived in Bangui and 'everyone fled owing to the shots fired by the Seleka'; he could see the Seleka arriving from PK12 and walking towards the Presidential Palace, firing shots into the air to celebrate their victory: P-2931: CAR-OTP-2135-4093, at 4096, paras 12-13. *See also* P-2105: T-023, p. 37.

[907] P-0291: T-062, p. 5. Jean-Jacques Demafouth recalled that on 25 or 26 March 2013, he heard three constitutional acts being read out on the radio granting Michel Djotodia the powers of the head of state: P-2328: CAR-OTP-2099-0165, at 0216, para. 266, draft translation: CAR-OTP-00000147, at 000052, para. 266. *See also* Constitutional (Provisional Organisation of State Powers) Act no. 2 of 26 March 2013, CAR-OTP-2004-1597, at 1597; UNSG Report May 2013, CAR-D30-0004-0102, at 0103, para. 6; UNHCHR Report September 2013, CAR-OTP-2001-0172, at 0176; P-0035: CAR-D33-0015-4474, at 4481. *See* below paras 790-793.

time.[908] Annyssa Bellal, a witness put forward by the Defence,[909] opined that from December 2012 until March 2013, 'CAR was deemed to be the site of a non-international armed conflict'.[910]

b) Events after 24 March 2013

i. FACA and Presidential Guard

432. Turning first to the situation of the FACA and the Presidential Guard, witnesses recalled a situation of uncertainty and chaos immediately after the Seleka takeover of Bangui and François Bozizé's flight to Cameroon on 24 March 2013. P-0884 stated that there was no government, all the soldiers had deserted, there were no soldiers in the military bases and no police force or gendarmerie.[911] The evidence before the Chamber is that those members of the State armed forces, who did not get a chance to leave the country, went into hiding.[912]

433. Nicolas Tiangaye and Jean-Jacques Demafouth gave evidence about the situation at the 'M'Poko camp' in Bangui at this time, recalling that many important people, ministers,

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[908] ICRC Annual Report 2012, CAR-D33-0014-3215, at 3215; UNHCHR Fact-Finding Mission Report, CAR-OTP-2034-0270, at 0279, paras 53-54; UNHCHR Report September 2013, CAR-OTP-2001-0172, at 0178, 0188-0189 (in this report at page 0178, the UNHCHR differentiated between two distinct periods: (i) from the offensive of the Seleka coalition on 10 December 2012 to the takeover of Bangui on 24 March 2013; and (ii) from seizure of power of the Seleka on 24 March 2013 and the self-declaration of Michel Djotodia as President of the National Transitional Counsel until the end of the period under review, 11 July 2013. It noted the existence of a non-international armed conflict 'during the initial period', implying that 'international humanitarian law was applicable from 10 December 2012 until the takeover by the Séléka of Bangui, on 24 March 2013'); UNHCHR Report February 2014, CAR-OTP-2001-0391, at 0393, para. 6; UN Commission of Inquiry Preliminary Report June 2014, CAR-OTP-2001-1075, at 1089, 1091-1092, paras 51, 62, 65 (the International Commission of Inquiry on CAR was of the view that 'there has been a non-international armed conflict since at least 1 January 2013' and noted violations of international humanitarian law by the State armed forces and the Seleka between the period '1 January to 24 March 2013'); UN Commission of Inquiry Final Report December 2014, CAR-OTP-2001-7017, at 7034, para. 43; UN Panel of Experts Interim Report, CAR-OTP-2001-0835, at 0843, para. 14. The Chamber further notes that while the BINUCA report was limited to noting human rights violations between 24 March and 7 May 2013, the incidents discussed therein do not support a conclusion that these were hostilities between the Seleka and the Central African armed forces: BINUCA Report May 2013, CAR-OTP-2034-0226, at 0236-0237, 0240, 0242, 0244, 0249-0252, 0259, paras 23, 30, 35-36, 50, 58, 73, 106-107, 109, 113, 121, 153.

[909] Defence First Rule 68(2)(b) Request, ICC-01/14-01/21-931-Red, para. 14.

[910] P-0015: T-135, pp. 19-20, referring to The War Report, CAR-D33-0014-1617, at 1618.

[911] P-0884: T-076, p. 43; P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-054-CONF-ENG, p. 27. P-2563 stated that the government had just fallen so everyone was looking for shelter; the FACA had scattered as they knew they had to save themselves; he recalled that policemen fled too and some of them went into neighbourhoods to first observe what was going on and, if possible, come back on duty: P-2563: T-112, pp. 26-27; P-2563: T-113, p. 11; P-2563: T-115, p. 63. P-1737 testified that 'when the Seleka conquered the city of Bangui, the regular forces, talking about the soldiers, the regular soldiers, took shelter to make sure they were safe': P-1737: T-044, p. 11.

[912] P-2251: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-044-CONF-ENG, p. 31; P-0662: CAR-OTP-2099-0336, at 0339, para. 18; P-0405: CAR-OTP-2107-4759, at 4771-4772; P-2179: CAR-OTP-2088-2250, at 2252, para. 13. *See also* UN Commission of Inquiry Preliminary Report June 2014, CAR-OTP-2001-1075, at 1087-1088, paras 42-44.

members of presidential security, the speaker of the National Assembly, and army generals and officers fled to take shelter there.[913] Multiple witnesses testified that the Bozizé family, members of the FACA and Presidential Guard and others fled to Zongo (which is across the river from Bangui in the DRC)[914] on the day of the Seleka takeover and in the weeks that followed.[915] P-2269, who fled to Zongo on [REDACTED] March 2013, described meeting individuals there at that time who had been amongst Bozizé's *Libérateurs* in 2003, including Rombhot, Maxime Mokom, Sani and Dazoumi Yalo and Captain Ngaïkosset.[916] Others, including Eric Danboy, Steve Yambete and Bernard Mokom, fled to Cameroon or the Republic of the Congo.[917]

434. Jean-Jacques Demafouth testified that for many people who were close to François Bozizé, including members of the FACA and the Presidential Guard, 'the first intention was to leave the country, to flee', while for others, such as those 'generals or officers who had family', it was important to 'form some sort of alliance with Djotodia to save their skin', which they ultimately did.[918] Jean-Jacques Demafouth stated that by June or July 2013, those who had been soldiers had left 'Camp M'Poko' and the FACA who were close to Bozizé in Bangui had disappeared.[919] Nicolas Tiangaye, asked if all those who fled or went into exile were considered as close to Bozizé, said that one could not generalise; he added that there were 'some of them who left for reasons that no one

[913] P-0291: T-061, pp. 44-45; P-2328: CAR-OTP-2099-0165, at 0175-0176, paras 53, 55-56, draft translation: CAR-OTP-00000147, at 000011-000012, paras 53, 55-56; P-2328: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-046-CONF-ENG, p. 70. The Chamber notes that Jean-Jacques Demafouth stated that the organisational work involved in setting up the Anti-Balaka started at Camp M'Poko in Bangui where François Bozizé's close entourage were located: P-2328: CAR-OTP-2099-0165, at 0175, para. 55, draft translation: CAR-OTP-00000147, at 000011, para. 55. The Chamber does not understand Jean-Jacques Demafouth's evidence here to mean that the Anti-Balaka existed as an entity in March 2013.
[914] Map, CAR-OTP-2070-0268; P-2232: T-102, p. 13.
[915] Jean-Jacques Demafouth testified that a significant number of Bozizé's guard crossed the River Oubangui with their weapons and gear to flee to Zongo in the DRC: P-2328: CAR-OTP-2099-0165, at 0179, para. 73, draft translation: CAR-OTP-00000147, at 000015, para. 73.
[916] P-2269: CAR-OTP-2111-0336, at 0339-0340, para. 25, referring to document issued by [REDACTED], CAR-OTP-2111-0364. The Chamber notes that these individuals would later be associated with the Anti-Balaka: *see* below paras 449-450, 464, 466. *See also* P-2328: CAR-OTP-2099-0165, at 0174, para. 49, draft translation: CAR-OTP-00000147, at 000010, para. 49.
[917] P-2251: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-044-CONF-ENG, p. 31; P-2232: T-102, pp. 13-15. The Chamber notes that these individuals would later be associated with the Anti-Balaka: *see* below paras 451, 482, 501. [REDACTED], who was a member of the Presidential Guard, fled to Betou in the Republic of the Congo with other FACA members in a convoy of four vehicles after the Seleka took over; he considered that when François Bozizé was overthrown, the Presidential Guard was dispersed and incorporated into the FACA: [REDACTED].
[918] P-2328: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-046-CONF-ENG, p. 77.
[919] P-2328: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-046-CONF-ENG, p. 77; P-2328: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-047-CONF-ENG, p. 60.

knows' but was convinced that many of those who were close to Bozizé, such as his close protection or members of the Presidential Guard, took the decision to go into exile.[920]

435. At the same time, there is clear evidence before the Chamber that, after an initial period of uncertainty in the aftermath of the Seleka takeover, many members of the FACA resumed their roles and duties within the Central African armed forces. Nicolas Tiangaye testified that on 28 March 2013, generals of the army, senior officers of the police and the gendarmerie pledged allegiance to Michel Djotodia.[921]

436. Benjamin Mallo recalled Michel Djotodia making calls to civil servants to return to work and Nouradine Adam, the Minister of Public Security, Immigration, Emigration and Public Order (the 'Minister of Public Security') at this time, repeating these calls and holding a meeting in April 2013, the '*Grand Rapport*', with police officers urging the security and defence forces to resume their work.[922] There is evidence that in May 2013, Michel Djotodia appointed Jean-Pierre Dolewaya, a FACA General at the time, as the FACA Chief of Staff.[923]

437. There is evidence that in May 2013, Jean-Pierre Dolewaya also made public calls urging

[920] P-0291: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-052-ENG, p. 3.
[921] P-0291: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-051-CONF-ENG, pp. 74-75. *See also* P-2328: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-046-CONF-ENG, p. 77. The Chamber also has before it a radio announcement made on the same day containing a message conveyed through an interlocutor on behalf of the 'Head of State', which states, *inter alia*, that 'this morning, after receiving the general and senior officers of the Central African Army and the Defence and Security Forces, the Head of State has held meetings to assess the security situation in the city of Bangui and in the interior of the country. […] The Head of State solemnly asked all the Chiefs of Staff to return to their posts and get their departments up and running on Tuesday': audio, CAR-OTP-2042-0544; transcript, CAR-D33-0014-0194; translation, CAR-D33-0014-0193.
[922] P-0338: T-017, pp. 54, 57-59. P-0338, a gendarme at the OCRB, recalled that he remained at home until, in late March or early April 2013, Michel Djotodia made an appeal to all administrative staff, both civilian and military, to resume their work; this call for the police officers, was repeated by Nouradine Adam, who was responsible for public security, who asked all the members of the defence and security forces to resume their work; he explained that Nouradine Adam called a meeting called the *Grand rapport*, which he himself attended and recalled it being a big meeting of all the police officers receiving instructions from the Minister; he could not recall the exact date of the *Grand rapport* but believed that it took place in early April 2013; P-0338 recalled that at this time, some officers were still in hiding and some were outside of Bangui. As regards the content of the meeting, P-0338 stated that Nouradine Adam 'urged everyone to resume their work, because to his mind, the Bozizé regime had fallen and they were then in power, and activities had to be taken up again'; P-0338 noted that some civil servants had already resumed their work, and he understood that Nouradine Adam would have to make the rounds to ensure that all services resumed their work. P-1970 stated that two or three days after the arrival of the Seleka in Bangui the Ministry of Public Security issued an official statement on the radio saying that all police officers on duty should return to work and go to the Central Police Station: P-1970: CAR-OTP-2087-9396, at 9400-9401, paras 17-18.
[923] P-0349: T-096, pp. 38-39; P-2179: T-054, p. 48; [REDACTED], CAR-D33-0014-2166, at 2169.

FACA members, police, gendarmes, customs officers, and others to return to work.[924] Nicolas Tiangaye, asked if people returned to work following these appeals, stated that not everyone returned.[925]

438. Certain witnesses, who were themselves part of the defence and security forces, recalled reporting for duty between early April 2013 and July 2013, with some doing so in response to these calls to return to work.[926] A report signed by Nicolas Tiangaye in his capacity as Prime Minister stated that 744 police officers, 2,600 gendarmes, and 4,458 FACA members had resumed their duties as of July 2013.[927]

439. The evidence regarding the FACA members who resumed their duties during this time revealed a difficult and tense working relationship with the Seleka.[928] P-1339 stated '[w]hen the Seleka took power, they did everything the way they wanted to and this did not allow any collaboration between them and the Central African armed forces.[929]

[924] Press release, CAR-OTP-2070-0181 (dated 25 May 2013, issued by the '*Le Général de Brigade, Chef d'état-major des Armées Jean-Pierre Dolewaya*'), appealed to, *inter alia*, all the entities of the defence and security forces, including the FACA, national gendarmerie, police and customs officials to regroup at the designated bases mentioned in the press release, and that this process would begin on 27 May 2013. In respect of the FACA, it stated that regrouping would take place at the ENAM, the CNS, the *Jeunesse Pionnière Nationale* and MAMIKA. Nicolas Tiangaye, who was shown this press release, agreed that there were several similar appeals over the radio during this period. *See* P-0291: T-062, p. 18. *See also* audio, CAR-OTP-2042-2217 (May 2013).
[925] P-0291: T-062, p. 18, referring to press release, CAR-OTP-2070-0181.
[926] *See, for example*, [REDACTED] stated that he was persuaded to return to work as a FACA member by a former colleague from the Presidential Guard, Khamis Abdelkarim Moussa, a day after the Seleka entered Bangui; he recalled needing the salary to feed his family and not being afraid as he had trained and worked with some of the Seleka chiefs and knew them on a personal basis; he 'was among the minority of FACA soldiers who continued working, after the Seleka's arrival in Bangui'; he was asked to convince other soldiers that he knew that it was safe to return to work and that about 15 FACA soldiers joined him at a base; he also gave the example of a former Presidential Guard for François Bozizé continuing to work in an administrative position with the FACA after the Seleka took over: [REDACTED]. [REDACTED], a FACA member who had fled to the Republic of the Congo after the Seleka took over Bangui, recalled being informed by the Central African ambassador to the Republic of the Congo that Michel Djotodia had asked all the FACA members in exile to return to CAR and resume their duties; [REDACTED] stated that he returned to Bangui and then recalled hearing the Minister of Defence on the radio asking all the FACA members to go to the ENAM; P-1762 stated that he attended the FACA gathering at ENAM and recalled many FACA chiefs and soldiers being present there at that time: [REDACTED]. [REDACTED], himself a former FACA, stated that [REDACTED] recruited [REDACTED] to be his personal driver; [REDACTED] recalled drafting a list of FACA members whom he knew would be suitable to secure the airport for the head of the presidential security at M'Poko Airport, who had joined the Seleka, and had asked [REDACTED] to assist with recruiting military to secure the airport: [REDACTED]. [REDACTED] testified that a few weeks after the Seleka captured Bangui, there was an announcement on the radio from the Ministry of Public Safety, launching an appeal to all public safety civil servants to resume their duties; [REDACTED] recalled returning to work: [REDACTED]. *See also* [REDACTED].
[927] P-0291: T-062, p. 19, referring to report, CAR-OTP-2101-2134, at 2135.
[928] *See* below paras 803-805.
[929] P-1339: T-131, p. 18. P-1420 testified that the FACA military command was only symbolic and that the Seleka controlled their own operations: P-1420: CAR-OTP-2040-0811, at 0821, 0829 paras 56, 113. [REDACTED] recalled being advised by his superior, who was in the Seleka, to not wear his FACA uniform and instead wear

440. The Chamber also received evidence that in the aftermath of the Seleka takeover of Bangui, some former FACA members left military life and returned to their homes.[930]

441. The Chamber notes that witnesses referring to the activities of former FACA members who did not resume their duties during this time or who joined the Anti-Balaka (or indeed the Seleka) generally continue to describe them as members of the Presidential Guard or FACA in reference to their previous positions. To avoid any conceptual confusion, where it is clear from the evidence that such persons had abandoned their official positions within the State armed forces at the time, the Chamber refers to them as former members of the FACA or Presidential Guard in the judgment.

ii. 'Pro-Bozizé' exiles

442. The Chamber now turns to the evidence relevant to the activities of François Bozizé and his entourage in the months after the Seleka takeover of Bangui with a focus on some of the figures who would later be associated with the leadership of the Anti-Balaka.

443. The Chamber first considers evidence regarding François Bozizé's actions immediately before he fled on 24 March 2013, with a view to assessing any instructions that may have been given to members of the State armed forces proximate to him at the time. Jean-Jacques Demafouth testified that, before fleeing to Cameroon on 24 March 2013, François Bozizé gathered his entourage and told them to flee and to take their weapons and ammunition with them.[931] The Chamber notes that Jean-Jacques Demafouth did not attend this meeting himself and did not explain how he knew that these instructions were given.[932] P-2232, [REDACTED][933] did not mention anything as regards Bozizé's instructions at this time to the armed forces.[934]

444. There is evidence that some FACA members hid their weapons before fleeing. However,

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civilian clothes 'in order not to provoke the Seleka' as the Seleka 'were known to be hostile and distrustful to the FACA, whom they considered loyal to former President Bozizé': [REDACTED].

[930] *See, for example*, [REDACTED] stayed home in Boy Rabe at first, but in June 2013, opened a small business: [REDACTED]. [REDACTED]. P-0884 stated that the FACA did not know what to do, so they joined the general population and sought shelter, but the Seleka still looked for those people in the neighbourhoods and tortured them: P-0884: T-076, p. 43. *See also* P-2179: T-054, p. 38.

[931] P-2328: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-046-CONF-ENG, pp. 74-76.

[932] P-2328: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-046-CONF-ENG, pp. 74-76. *See also* above paras 199-204.

[933] P-2232: T-102, p. 8.

[934] P-2232: T-102, p. 13. *See also* [REDACTED].

the evidence in this case does not show that these weapons were eventually retrieved by the Anti-Balaka at a large-scale in their offensive against the Seleka. P-2232 recalled that the soldiers had left off their vehicles and weapons in 'Mboko (phon)' before proceeding to 'cross over in a boat all the way to Zongo'.[935] P-2269 stated that, when Michel Djotodia took over, 'some of the men hid their weapons' [REDACTED] and he (P-2269) received some of these weapons in Bangui later to assist in fighting against the Seleka.[936] P-1339 confirmed that FACA members buried their weapons before fleeing.[937] P-1524 described how mortars and ammunition allegedly buried by Ngaïkosset, a member of the Presidential Guard, 'in his own fields by the hill' were recovered by the Seleka.[938]

445. Jean-Jacques Demafouth testified that, according to intelligence he received, François Bozizé's Presidential Guard had hidden and buried large quantities of weapons and ammunition along the borders with Cameroon and the Republic of the Congo, and within the borders of CAR before they had fled.[939] Jean-Jacques Demafouth recalled that FOMAC had reported that the Presidential Guard's armoury, located at Camp de Roux, had been emptied of its contents by François Bozizé's soldiers who took what they could carry, save for large quantities of ammunition, which Jean-Jacques Demafouth later himself observed when he visited Camp de Roux in May 2013.[940]

446. Jean-Jacques Demafouth testified about being informed of meetings held in Cameroon in which François Bozizé appeared to have been soliciting support from abroad at some point prior to September 2013, but the exact time frame and subject-matter of these

[935] P-2232: T-102, pp. 13-14. P-1289, who was not a member of the armed forces but was in Ouango at the time, had heard that François Bozizé's sons and members of the Presidential Guard came to Ouango, dumped their weapons there and crossed the river to Zongo, in the DRC: P-1289: CAR-OTP-2053-0359, at 0362, para. 19. *See also* P-2179: CAR-OTP-2088-2250, at 2252, para. 13; P-2179: T-054, pp. 43-44.
[936] P-2269: CAR-OTP-2111-0336, at 0345, para. 68. *See also* [REDACTED].
[937] P-1339: T-131, p. 34.
[938] P-1524: CAR-OTP-2062-0468, at 0486 to 0487, paras 90-92. The Chamber understands P-1524's reference to 'Ngaïkosset' to be a reference to a person by the same last name who was François Bozizé's presidential guards. *See* P-0100: CAR-OTP-2027-2535, at 2540, para. 31. *See also* P-2232: T-102, p. 17.
[939] P-2328: CAR-OTP-2099-0165, at 0173-0174, 0209-0210, paras 45, 48-49, 240-241, draft translation: CAR-OTP-00000147; at 000008-000009, 000046 paras 45, 48-49, 240-241 (*see also* mission order, CAR-OTP-2075-1289); P-2328: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-046-CONF-ENG, pp. 81-86. Jean-Jacques Demafouth described how the national authorities of these countries were able to retrieve some of these weapons and provide intelligence as to where weapons in CAR had been hidden: P-2328: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-046-CONF-ENG, pp. 82-86.
[940] P-2328: CAR-OTP-2099-0165, at 0174, para. 49, draft translation: CAR-OTP-00000147; at 000010, para. 49.

meetings is not known.[941] Jean-Jacques Demafouth stated that he also heard that François Bozizé was asking soldiers who had remained within CAR to assist the Anti-Balaka.[942] Jean-Jacques Demafouth also found out that Patrice-Edouard Ngaïssona, among others, had gone to Cameroon to meet with François Bozizé.[943]

447. There is evidence that the following individuals, among others, purportedly closely linked to François Bozizé sought refuge in Cameroon: Colonel Eric Danboy (who had been the director of François Bozizé's presidential convoy),[944] Lieutenant Steve Yambete (who had been in the Presidential Guard of François Bozizé),[945] Olivier Koudemon aka Gbangouma (who had been a former member of Bozizé's Presidential Guard),[946] Lamkague (who was a former member of Bozizé's Presidential Guard),[947] as well as

[941] P-2328: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-046-CONF-ENG, p. 87; P-2328: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-047-CONF-ENG, pp. 3-4. Jean-Jacques Demafouth recalled being informed of meetings being held at the Central African Embassy in Cameroon to support the Anti-Balaka and its reorganisation; he did not recall who participated in those meetings, but was told that it was organised by their military attaché at the embassy in Yaoundé; he was also aware of meetings being organised by close collaborators of François Bozizé, including Lin Banoukepa, which were held in France and directed to the organisation of the Anti-Balaka; as a result of the intelligence Jean-Jacques Demafouth had received from neighbouring countries (in particular, Cameroon), he heard that François Bozizé had contacted some of his European friends and asked them to come and 'help him to organise the Anti-Balaka'.

[942] The Chamber notes the evidence concerning the emergence of the term 'Anti-Balaka' publicly in August 2013. Given that the information regarding these meetings was relayed to Jean-Jacques Demafouth during a mission that took place in September 2013, the Chamber understands that the reference to the Anti-Balaka in the context of Demafouth's testimony as a whole is not an indication that the Anti-Balaka existed as an entity at an earlier point in time. Jean-Jacques Demafouth refers to several meetings without distinguishing their purpose, attendees, timeframe, or content, and provides general statements about their theme. Having regard to these considerations, while the Chamber accepts Jean-Jacques Demafouth's evidence to the effect that meetings took place in Cameroon in which François Bozizé attempted to solicit support for his cause, the Chamber cannot ascertain the exact nature of the discussions or the outcome of these meetings.

[943] P-2328: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-046-CONF-ENG, p. 87. Jean-Jacques Demafouth also testified that, from about 28 March 2013, he knew that François Bozizé was communicating with his close circle in the Camp at M'Poko, stating that 'it was obvious to him that those persons were speaking to General Bozizé' as he was in a position to directly observe this and listen to some of the calls: P-2328: CAR-OTP-2099-0165, at 0176, paras 55-57, draft translation: CAR-OTP-00000147, at 000011-000012, paras 55-57.

[944] [REDACTED].

[945] [REDACTED]. P-0884 recalled that François Bozizé appointed Steve Yambete as *chargé de mission* in charge of youth before Ngaïssona was appointed as Minister of Youth and Sport (which was after the Libreville dialogue in 2013): P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-054-CONF-ENG, pp. 37-38.

[946] [REDACTED]. P-0884 stated that Koudemon was one of François Bozizé's *Libérateurs* and had escaped from Bossangoa to Cameroon even before the Seleka took power in Bangui: P-0884: CAR-OTP-2072-1356, at 1378-1380, 1387, 1391; P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-054-CONF-ENG, pp. 63-65. *See also* P-0291: CAR-OTP-2034-0104, at 0112, para. 48, referring to list, CAR-OTP-2024-0062.

[947] P-0884: CAR-OTP-2072-1356, at 1378-1380, 1391. P-0884 testified that [REDACTED] Lamkague from Bangui and that he had been one of Bozizé's *Libérateurs*; he recalled that Lamkague had taken part in the fighting at Damara and was one of the 'loyalist soldiers who were chased away by the Seleka at the red line': P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-054-CONF-ENG, pp. 60-61.

persons who had not been in the military, including Patrice-Edouard Ngaïssona (a businessman and former Minister of Youth, Sport, Arts and Culture under Bozizé),[948] and Bernard Mokom (a relative of François Bozizé and former sub-prefect in a town bordering Cameroon).[949] P-0884 stated that he (P-0884) fled to Yaoundé about two to three months after the Seleka arrived in Bangui, because there were people 'who could harbour' him there,[950] and reported that Central Africans were everywhere in Yaoundé and in Douala and mostly former soldiers in Bertoua.[951]

448. [REDACTED].[952] P-2232 recalled an 'attack organised by Steve Yambete in Garam-Boulai'[953] sometime after the Seleka arrival,[954] following which 'the group scattered' and François Bozizé left Cameroon; only Bernard Mokom and Ngaïssona remained in Cameroon and 'they transferred the command to Zongo, to Maxime Mokom who was there'.[955]

449. As regards Zongo (the DRC), there is evidence that there were a number of civilians and members of the State armed forces of unknown political affiliation who had fled to the DRC following the Seleka takeover of 24 March 2013.[956] There is clear evidence

[948] P-0884: CAR-OTP-2072-1654, at 1659-1660; P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-054-CONF-ENG, p. 68; Jean-Jacques Demafouth recalled Ngaïssona being the President of the Central African football federation and a Minister under the Bozizé government: P-0884: ICC-01/14-01/18-T-058-CONF-ENG, pp. 7-8. Jean-Jacques Demafouth recalled Ngaïssona and Bozizé being related, both being from Bossangoa and members of the KNK: P-2328: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-046-CONF-ENG, pp. 66, 87-89; P-2328: CAR-OTP-2099-0165, at 0213, para. 257, draft translation: CAR-OTP-00000147, at 000049, para. 257. The Chamber notes that François Bozizé also appointed 'Edouard Patrice Ngaïssona' as the Minister of Youth, Sport, Arts and Culture after the 2013 Libreville Agreement: presidential orders, CAR-OTP-2101-1895, at 1899; CAR-D33-0005-0078.
[949] P-2232: T-102, pp. 14-15. P-2232 stated that Bernard Mokom was part of François Bozizé's family and was Maxime Mokom's father. P-2232 recalled that Bernard Mokom used to work as François Bozizé's Chief of Staff and was later dismissed on charges of embezzlement, following which Bozizé posted him to work as a sub-prefect in a town bordering Cameroon. *See* P-2232: T-102, p. 15. *See also* P-2269: CAR-OTP-2111-0336, at 0340, 0347, paras 32, 80; P-0884: CAR-OTP-2080-1678, at 1686-1687.
[950] P-0884: CAR-OTP-2072-1356, at 1382; P-0884: CAR-OTP-2072-1773, at 1790-1793.
[951] P-0884: CAR-OTP-2072-1356, at 1388-1389.
[952] P-2232: T-102, pp. 8, 16-19; P-2232: T-103, pp. 23, 30.
[953] *See* below para. 501.
[954] The Chamber notes that P-2232 could not remember the exact date of the attack but stated that it took place about a month or a month and a half after the Seleka arrived in Bangui: P-2232: T-102, p. 23. The Chamber notes that the witness exhibited some confusion regarding the time-frame of various events (P-2232: T-102, pp. 24, 28-29; P-2232: T-103, pp. 21-22; P-2232: T-104, pp. 18-19), and that his narrative relating to the attack on Garam-Boulaï links it with the creation of FROCCA and the attack on Michel Djotodia's inauguration. Noting that the available evidence regarding the creation of FROCCA (*see* below paras 452-453) and the attack on Michel Djotodia's inauguration (*see* below para. 503) place these events in August 2013, the Chamber is satisfied that this attack occurred at some point before the attack prior to Michel Djotodia's inauguration on 18 August 2013.
[955] P-2232: T-102, p. 21.
[956] P-2232: T-103, p. 23; P-2232: T-102, pp. 13-14; P-2269: CAR-OTP-2111-0336, at 0339, para. 25. *See also* P-2232: T-103, p. 26; P-1339: T-131, pp. 19-20, 25-26.

regarding the presence of people purportedly linked with the Bozizé regime in Zongo after the Seleka takeover of Bangui, in addition to the Bozizé family,[957] including:[958] Maxime Mokom (identified by witnesses as a police official working in the intelligence services),[959] Sani and Dazoumi Yalo,[960] Lieutenant Hervé Ganazoui,[961] Captain Eugène Ngaïkosset,[962] Claude Ngaïkosset,[963] Alfred Yekatom aka 'Rombhot',[964] and [REDACTED].[965]

450. P-2232, [REDACTED],[966] recalled that by the end of April 2013, Maxime Mokom, Eugène Ngaïkosset, Claude Ngaïkosset, Kossi, and others were housed in proximity of each other in Zongo.[967] P-2232 recalled meetings taking place in Zongo to prepare the Anti-Balaka movement, and one of the Ngaïkosset brothers preparing flyers denouncing Seleka abuses and sending people to distribute them in Bangui.[968] The Chamber notes that the time-frame of these activities is not apparent from the evidence.

451. P-2232 stated that Maxime Mokom was communicating with his father, Bernard Mokom, and would 'talk with his father about everything that had happened' [REDACTED] they

[957] P-2269: CAR-OTP-2111-0336, at 0339, para. 25; P-2232: T-102, p. 13.
[958] Witnesses who were in Zongo at the time recalled that the Congolese authorities separated the members of the armed forces from the civilians: [REDACTED].
[959] P-2269: CAR-OTP-2111-0336, at 0340, paras 26-27. P-2232 stated that Maxime Mokom was Bernard Mokom's son [REDACTED]; Maxime Mokom created the Anti-Balaka and would provide strategies to implement in the field: P-2232: T-102, pp. 18, 25. Jean-Jacques Demafouth recalled Maxime Mokom holding the rank of a police captain: P-2328: CAR-OTP-2099-0165, at 0176, para. 58; draft translation: CAR-OTP-00000147, at 000012, para. 58.
[960] P-2269: CAR-OTP-2111-0336, at 0340, paras 26-27. Sani and Dazoumi Yalo were brothers, who had both been among François Bozizé's *Libérateurs*. *See also* P-2328: CAR-OTP-2099-0165, at 0214, para. 257, draft translation: CAR-OTP-00000147, at 000050, para. 257. P-2105 testified that Sani Yalo was a businessman and Danzoumi Yalo was a colonel in the Central African army and a close collaborator of François Bozizé: P-2105: T-023, p. 49; P-2105: T-027, p. 36.
[961] P-2269: CAR-OTP-2111-0336, at 0340, paras 26-27; P-1339: T-131, p. 25.
[962] P-2232: T-102, pp. 16-17; P-2269: CAR-OTP-2111-0336, at 0340, paras 26-27; P-2328: CAR-OTP-2099-0165, at 0172, para. 39, draft translation: CAR-OTP-00000147, at 000008, para. 39.
[963] P-2232: T-102, p. 10; P-2269: CAR-OTP-2111-0336, at 0340, paras 26-27. According to P-2232, Claude Ngaïkosset was a tax inspector [REDACTED]: P-2232: T-102, pp. 17-18.
[964] P-2269: CAR-OTP-2111-0336, at 0340, paras 26-27; P-0884: T-078, p. 17; P-0884: CAR-OTP-2072-1516, at 1520-1521; P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-054-CONF-ENG, pp. 53-54; P-1339: T-131, p. 25.
[965] P-2232: T-102, pp. 16-17.
[966] P-2232: T-102, pp. 18-19.
[967] P-2232: T-103, pp. 30-33; P-2232: T-102, pp. 18-19. [REDACTED]: P-1339: T-131, pp. 22-23.
[968] P-2232: T-102, pp. 27, 50; P-2232: T-103, pp. 34-37; P-2232: T-104, p. 21. The Chamber notes that the timing of these meetings and organisational activities is unclear from P-2232's testimony: P-2232: T-102, pp. 27-28. The Chamber further notes that the exact time of Ngaïkosset's activities is not known from P-2232's evidence but appears to have taken place prior to August 2013. It is also not clear from P-2232's testimony which of the Ngaïkosset brothers was taken to Kinshasa as he mentions both names at different points. *Compare* P-2232: T-104, p. 21 with P-2232: T-103, p. 35. The Chamber does not consider this to affect the credibility of his account generally.

would 'encourage each other to be steadfast in [their] work, believing that some day [they would] return to the Central African Republic'.[969] P-0884 stated that 'something was happening' between Maxime Mokom and his father, who was based in Cameroon, and Ngaïssona and that it was well known that Maxime Mokom was buying ammunition and sending it to CAR and some of it came from Cameroon through Garam-Boulaï until the 'Djotodia government became aware' of it and banned this trade of hunting ammunition.[970] Again, the Chamber notes that the time-frame of these activities is not apparent from P-0884's testimony.

452. There is also evidence that individuals purportedly linked to François Bozizé made efforts to galvanise popular and international support for a movement to expel the Seleka from CAR, in the form of an organisation called the FROCCA, the creation of which was announced on 16 August 2013 in a press release stating, *inter alia*:

> […] This front, which appeals to the spirit of resistance of the Central Africans, this spirit that guided their ancestors to reject oppression, is the crucible of hope for patriots who refuse to capitulate in the face of the ignominy and barbarity of the Seleka criminals. While imposing on itself the duty of expelling, by legal means, the Seleka criminals from the Central African self that they have defiled and desecrated, the FROCCA calls on the Central African collective conscience with a view to a conditional adherence to this legitimate struggle for national liberation.[971]

453. P-0884 identified Banoukepa as the chief of FROCCA and recalled that the creation of this movement was also announced by François Bozizé over *Radio France Internationale*.[972] P-0884 thought that it was in France or Cameroon that they started putting in place the structure',[973] and believed that Ngaïssona, Yakete and Kokaté were also involved.[974] He testified that the people leading FROCCA wanted 'a return to constitutional order' and 'supported the return of Bozizé to power'.[975] Jean-Jacques Demafouth stated that he and others knew that the Anti-Balaka 'were already forming

[969] P-2232: T-102, p. 50.
[970] P-0884: CAR-OTP-2072-1715, at 1727-1730.
[971] Press release, CAR-OTP-2074-0366, at 0375.
[972] P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-055-CONF-ENG, p. 42.
[973] P-0884: CAR-OTP-2080-1678, at 1698-1699; P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-055-CONF-ENG, pp. 42-43.
[974] P-0884: CAR-OTP-2080-1678, at 1699; P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-055-CONF-ENG, p. 42; P-2232: T-102, p. 21.
[975] P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-056-CONF-ENG, p. 34. *See also* P-2328: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-047-CONF-ENG, pp. 4-5; report of P-2926 for the Prosecution, CAR-OTP-2127-4289, at 4307 to 4308, paras 41-44; CAR-D33-0014-2884, at 2890-2892; letter, CAR-OTP-2122-8978.

into a proper structure with real leaders in Cameroon' by September 2013 and referred to Lin Banoukepa as someone who was involved in its establishment.[976]

454. There is no evidence in this case of any hierarchy existing between François Bozizé and persons allegedly associated with him, namely Maxime Mokom, Bernard Mokom and Patrice-Edouard Ngaïssona in the period between 24 March 2013 and 10 January 2014.

iii. Emergence of the Anti-Balaka

455. The Chamber now turns to the events in CAR from end-March to December 2013, which coincide with and are connected to the activities of the 'pro-Bozizé' exiles discussed above.

456. Below, the Chamber considers the evidence relevant to mobilisation of the new and pre-existing self-defence groups alleged by the Prosecution to have formed the Anti-Balaka and to have been organised by François Bozizé and his allies to continue the hostilities against the Seleka and the role played by former members of the FACA and Presidential Guard in the mobilisation of this group. In particular, the Chamber considered the accounts of P-0884,[977] P-0966,[978] P-2251,[979] P-2269,[980] and P-1339.[981]

[976] P-2328: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-046-CONF-ENG, p. 89.
[977] The Chamber also notes the evidence of P-0884, who was not in Gobere himself but heard about what happened there in Bangui; P-0884 stated that when the Seleka chased out the military to kill them, people withdrew to Gobere; P-0884 was told that they went there because of the crimes being committed by the Seleka; they went there for training so that they could come back and fight the Seleka; P-0884 described it as 'a sort of initiation phase', where they wanted to complete their military training with rituals in order to become invulnerable and attack the Seleka; P-0884 recalled that 'they can't have gone there without some sort of agreement' and that there 'must have been some discussion before they went there'. *See* P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-055-CONF-ENG, pp. 32-34.
[978] P-0966 stated that the Seleka attacked his village, killed [REDACTED], burnt his house and stole his hunting rifle; according to him, the Seleka wanted to kill all the men, so he fled into the bush. P-0966 stated that he was the [REDACTED] in his village, [REDACTED] operations to attack the Seleka in the bush however the time frame of this specific claim is not known. P-0966 joined those gathering in Gobere and participated in the events in 2013; he left the Anti-Balaka movement [REDACTED]. *See* P-0966: CAR-OTP-2031-0241, at 0244, paras 17-20, at 0259, para. 103; addendum to P-0966's prior recorded testimony, CAR-OTP-00036900, at 0002.
[979] P-2251, stated that when the Seleka attacked his village, he fled to the bush, as did everyone else in his village; he could not return to his village as the Seleka continued to pillage and shoot people; the Seleka killed his [REDACTED]; he joined those that gathered in Gobere and joined the Anti-Balaka, later becoming [REDACTED]: P-2251: CAR-OTP-2093-0045, at 0047-0048, paras 11-15, at 0050, 0072, paras 30, 178; addendum to P-2251's prior recorded testimony, CAR-OTP-00036201, at 00001.
[980] P-2269 stated [REDACTED] that the Seleka had killed his mother; P-2269 believed that the Seleka killed her because [REDACTED]; P-2269 stated that he was angry and could not forgive [REDACTED]. *See* P-2269: CAR-OTP-2111-0336, at 0340-0341, paras 33-34.
[981] P-1339 was a resident of Bangui at the time when the Seleka entered Bangui on 24 March 2013 [REDACTED] and thereafter joined Alfred Yekatom's group and participated in the attack on Bangui on 5 December 2013: P-

457. As discussed in detail below, the evidence before the Chamber focussed on two locations where the Prosecution alleges that groups began gathering after the Seleka takeover of 24 March 2013, namely Gobere and Kalangoi. The Chamber received evidence that Gobere was a location, north of Bangui in the bush near Bossangoa,[982] and P-0884 knew it as 'Bozizé's village'.[983] P-1339 gave evidence about Kalangoi being situated in the region south of Bangui.[984]

iv. Composition and motivation

458. Multiple witnesses describe how the groups that ultimately formed the Anti-Balaka mobilised at the level of localities or villages to protect the population against Seleka abuses.[985] Witnesses consistently emphasised that Seleka exactions were the reason for the emergence of the Anti-Balaka.[986] P-2232 testified that '[h]ad the Seleka not looted, we would not have had such a situation. […] The Seleka took power and they gave rise to the Anti-Balaka group because of the exactions that they committed'.[987] P-0342

1339: T-131, pp. 16-17, 28-29; P-1339, T-132, p. 11, referring to sketch, CAR-OTP-2041-0767; P-1339: T-133, p. 7.

[982] P-2269: CAR-OTP-2111-0336, at 0343, para. 53. As regards location, P-2251 marked it on a map shown to him as being in the bush to the south-east of Bossangoa: P-2251: CAR-OTP-2093-0045, at 0050, para. 31, referring to annotated map, CAR-OTP-2093-0083. P-0966 recalled Gobere being located to the north-east of Bossangoa in the bush between Yourouba, where Bozizé had his house, and Benzambé: P-0966: CAR-OTP-2031-0241, at 0245, para. 26; annotated map, CAR-OTP-2031-0266. The Chamber notes that the location described by P-2251 and P-0966 appeared to be in the bush surrounding the Bossangoa region. It did not appear to lie on a primary road depicted on these maps. In the view of the Chamber, the witnesses' imprecision as to exact location in this instance did not affect the reliability or credibility of their accounts generally concerning the events in and around Gobere. Based on their evidence, the Chamber is satisfied that Gobere was a location in the bush near Bossangoa.

[983] P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-055-CONF-ENG, p. 22.

[984] P-1339: T-131, p. 48; P-1339: T-133, pp. 16-17, referring to map, CAR-D33-0014-1577 (annotated version, CAR-REG-0002-0156). The Chamber recalls its conclusions on P-1339's credibility and his inability to locate places on a map. *See* above paras 147-152. Considering P-1339's evidence concerning the location of Kalangoi, the Chamber is satisfied that it is located in the region south of Bangui.

[985] P-2232: T-102, pp. 32-33. *See also* P-2232: T-102, p. 19; P-2269: CAR-OTP-2111-0336, at 0342, paras 41-42.

[986] *See*, *for example*, P-2232 recalled the Seleka exactions after François Bozizé fled and stated that is how the Anti-Balaka movement came into existence: because people wanted to protect themselves from excessive abuses by the Seleka: P-2232: T-102, pp. 12, 31. P-2269, whose mother had been killed [REDACTED], believed that if the Seleka had taken power peacefully, 'nothing would have happened', but when the Seleka started killing, the Anti-Balaka were angry and wanted revenge; this movement did not have the objective of taking the presidency; children of the country just wanted to bring peace to the country; 'we felt abandoned and alone at the time': P-2269: CAR-OTP-2111-0336, at 0339, 0342, paras 19-21, 44. P-1339 recalled people joining the group because of what the Seleka were doing and wanting to take up arms to defend their country; he stated that the Seleka practically subjected all the Central Africans to slavery, and they wanted to recover their freedom; he recalled that there was a lot of anger following what had been happening, so it was because of the acts of violence of the Seleka that P-1339 revolted and took up arms: P-1339: T-131, pp. 13, 33, 35. *See also* P-2251: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-044-CONF-ENG, p. 29; P-0405: CAR-OTP-2118-6171, at 6178.

[987] P-2232: T-103, p. 18.

testified that the Anti-Balaka were mostly Christian Central African nationals, who joined to 'defend the homeland' against the Seleka, adopting the term which meant '*anti-balles* AK, that is, anti-AK-bullet, as in AK-47'.[988]

459. P-0884 stated that the Anti-Balaka 'was a multitude of groups that came together a little bit from everywhere',[989] some from Bouca, Bossangoa, Bozoum, Lobaye, Boda, Kaga-Bandoro, and Bambari.[990] P-2251 stated that the numbers increased and people spontaneously joined right up to December 2013 as the Seleka activities grew and people fled the Seleka's acts of violence.[991]

460. The Chamber received evidence from P-0966 and P-2251 describing how groups from their localities came to join the groups gathered at Gobere. P-0966 stated that he was [REDACTED][992] [REDACTED].[993] He testified that his village was attacked and burned down by the Seleka on [REDACTED] April 2013 and that they wanted to kill all the men so they fled to the bush.[994] P-0966 stated that a group of 67 of them left for Gobere in June 2013, having heard that people were gathering there 'by word of mouth'.[995] P-0966 recalled that they walked there over 15 days, during which time they were joined by youngsters between the ages of 18 and 20 years old who wanted to avenge the deaths of their family members who were victims of the Seleka.[996]

[988] P-0342: T-125, pp. 5-6. The Chamber notes that P-0342, asked against whom the Anti-Balaka were defending, also testified that 'most of the Anti-Balaka were FACA soldiers'. The Chamber has taken this into account, together with other evidence, when assessing the evidence concerning the composition of the Anti-Balaka generally. *See also* UN Commission of Inquiry Preliminary Report June 2014, CAR-OTP-2001-1075, at 1087, para. 43.
[989] P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-057-CONF-ENG, p. 10.
[990] P-0884: CAR-OTP-2072-1356, at 1364-1365.
[991] P-2251: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-044-CONF-ENG, pp. 4-6.
[992] P-0966: CAR-OTP-2031-0241, at 0244, para. 22; prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-118-CONF-ENG, p. 57. P-0966 stated that they had already started calling themselves Anti-Balaka when François Bozizé was still in power, to defend themselves against armed Peuhl who were 'acting as road bandits in the bush causing problems' because the police did not help. He further testified that groups referred to as Anti-Zaraguina were called as such 'because they were defending themselves against the highway bandits'. As set out below, the term Anti-Balaka came to be used in reference to the group that emerged to fight against the Seleka around August 2013 and the Chamber does not consider P-0966's testimony in this respect to be indicative of the existence of an armed group known as the Anti-Balaka when François Bozizé was still in power.
[993] P-0966: CAR-OTP-2031-0241, at 0244, paras 17-18.
[994] P-0966: CAR-OTP-2031-0241, at 0244, para. 20; addendum to P-0966's prior recorded testimony, CAR-OTP-00036900, at 0002.
[995] P-0966: CAR-OTP-2031-0241, at 0245, paras 23, 25.
[996] P-0966: CAR-OTP-2031-0241, at 0245, para. 25. P-0966 mapped out the path he took from his village to Gobere: annotated map, CAR-OTP-2031-0266.

461. P-2251 stated that he was engaged in hunting, farming and commercial activities and was in [REDACTED] when the Seleka attacked the village (after they had taken over Bangui).[997] He stated that his entire village fled to the bush after the Seleka attacked around [REDACTED] June 2013, killing people and stealing property.[998] P-2251 stated that he and about a hundred others remained in the bush, where they met Benjamin Ouapoutou[999] and Thierry Lebene, who obtained supplies and food for them.[1000] P-2251 stated that they tried to leave the bush and approach [REDACTED] around [REDACTED] July 2013 but the Seleka shot at them ([REDACTED]) and they retreated into the bush again where they met and joined up with another group of Central Africans.[1001] P-2251 stated that the Seleka pursued them in the bush so they travelled north to seek refuge in Bossangoa and Bouca as there was no telephone network in Bogangolo and they had no news from elsewhere;[1002] on their way, they encountered others at Ngobere[1003] from Bouca, Bossembele, Bossangoa, and Bogangolo who had also fled their towns and villages because the Seleka were doing 'terrible things'.[1004] P-2251 stated that he arrived in Gobere sometime in early to mid-July 2013 and stayed there until about early to mid-September 2013.[1005] P-2251 stated that 'the chiefs decided that the only option was to fight the Seleka, and to drive them away from our villages'.[1006]

462. P-0966 explained that those who had been close to François Bozizé fled to Gobere and were planning to go back to Bangui to force out the Seleka.[1007] P-0966 stated that 'we thought the international community would see us fighting the Seleka with our wooden

[997] P-2251: CAR-OTP-2093-0045, at 0047-0048, 0072 paras 12-15, 178.
[998] P-2251: CAR-OTP-2093-0045, at 0048, paras 14-18. P-2251 marked where they fled to in the bush on annotated map, CAR-OTP-2093-0083 with an 'X': P-2251: CAR-OTP-2093-0045, at 0048, para. 17; addendum to P-2251's prior recorded testimony, CAR-OTP-00036201, at 00001.
[999] P-2251 identified Benjamin's surname on a list of Anti-Balaka, CAR-OTP-2039-0031, shown to him by the investigators, noting that he lived between Bogangolo and Bossembele: P-2251: CAR-OTP-2093-0045, at 0048, para. 18; addendum to P-2251's prior recorded testimony, CAR-OTP-00036201, at 00001.
[1000] P-2251: CAR-OTP-2093-0045, at 0048-0049, paras 18-21.
[1001] P-2251: CAR-OTP-2093-0045, at 0049, para. 22. *See also* P-2251: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-043-CONF-ENG, p. 12.
[1002] P-2251: CAR-OTP-2093-0045, at 0049-0050, paras 24-29.
[1003] P-2251 stated that he was not sure how to spell the name and decided on Ngobere: P-2251: CAR-OTP-2093-0045, at 0050, para. 31. P-0884 explained that it was called 'Gobéré' in the Gbaya language. P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-055-CONF-ENG, p. 22. The Chamber understands these witnesses to be referring to the same location: 'Gobere'.
[1004] P-2251: CAR-OTP-2093-0045, at 0050, para. 30.
[1005] P-2251: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-043-CONF-ENG, pp. 12-13. *See also* P-2251: CAR-OTP-2093-0045, at 0062, para. 0050, para. 33.
[1006] P-2251: CAR-OTP-2093-0045, at 0052, paras 42-43. *See also* P-2251: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-043-CONF-ENG, p. 14.
[1007] P-0966: CAR-OTP-2031-0241, at 0245, para. 23.

sticks against their weapons and see that we needed help, and that they would then come help us'.[1008] P-0966 stated that 'we were told that the former president would provide us with weapons so that we could liberate the country' and that is 'what motivated me to join the movement at that time'.[1009]

463. As regards the composition of the groups gathered in Gobere, witnesses recalled there being between 10 and 17 soldiers initially, with the rest being civilian.[1010] According to P-0966, former FACA members 'progressively joined over time' and, although civilians accepted them, they did not follow them because the FACA had failed to protect them against the Seleka.[1011] P-2251 testified that the former FACA members who were amongst them in Gobere had also fled from the Seleka and were hiding in the bush with them, and should not be perceived as having managed the group.[1012]

464. There is evidence that a former FACA member, Alfred Yekatom alias Rombhot and Rambo, fled to Zongo after the Seleka takeover and subsequently formed a group in the bush to the south-west of Bangui.[1013] P-1339 stated that, [REDACTED] Alfred

[1008] P-0966: CAR-OTP-2031-0241, at 0245, para. 24.
[1009] P-0966: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-117-ENG, p. 5.
[1010] P-0966: CAR-OTP-2031-0241, at 0246, para. 28. P-0966 testified that, while many people had made their way to Gobere, 'there were only 15 FACA (mostly from the Presidential Guard) and 1 policeman among us civilians'. P-2251 testified that when they started, the majority were civilians and recalled there being around 10 military among them. P-2251 recalled in the same vein that there were people who had fled from Bossembele, Bouca, Bogangolo, Bossangoa from the crimes and abuses and then they regrouped and moved forward. P-2251 stated that there were career military people amongst them, but that they did not know their ranks and recalled many of the chiefs being civilians: P-2251: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-044-CONF-ENG, pp. 29-31. P-0884, who was not in Gobere himself, stated that those who arrived in Gobere first were military and originally there were 17 but 4 were killed in the process and 13 remained behind and were joined by many other chiefs there: P-0884: CAR-OTP-2072-1849, at 1854-1855; P-0884: T-076, p. 45.
[1011] P-0966: CAR-OTP-2031-0241, at 0246, para. 28: 'Initially, FACA and police officers were not in command. We accepted the FACA, but didn't follow them. With time they took over more power within the Anti-Balaka. We didn't like them because they were not courageous and had failed to protect us against the Seleka. We civilians had to defend ourselves instead.' P-0966 stated that some FACA members were respected, particularly those who had begun the movement alongside the civilians, including Dedane, Romain and others; those FACA members who joined only after the group began marching from Gobere were not respected by the group; persons who truly had authority over the FACA members were Kema, Ndangba, and Romain because they were soldiers, and that he, as a civilian, could not give orders to the FACA: P-0966: prior recorded testimony given in the *Yekatom and Ngaïssona case*, ICC-01/14-01/18-T-117-ENG, pp. 25, 26, 29.
[1012] P-2251: ICC-01/14-01/18-T-044-CONF-ENG, pp. 30-31. P-2251 testified that one should not 'say or think that they were military who were the basis of this or managed it. No, no, we can't say that'. P-2251 stated that civilians could lead the soldiers and in other teams, the opposite could happen; he testified that 'the civilians and the military were together' and 'carried out the fights together' with civilians leading sometimes; the FACA did not lead them all the time: P-2251: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-044-CONF-ENG, p. 32.
[1013] P-2269: CAR-OTP-2111-0336, at 0340, 0344, paras 27, 56; P-0884: CAR-OTP-2072-1516, at 1521; P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-054-CONF-ENG, pp. 53-

Yekatom's group in Kalangoi,[1014] five soldiers and eight young people were [REDACTED] there,[1015] and more young people from Bangui joined progressively.[1016] P-1339 stated generally that the Anti-Balaka was made up of soldiers and civilians and they were set up to fight against the Seleka and to liberate CAR and considered the Anti-Balaka chiefs were 'all soldiers'.[1017] Speaking to his personal motivation for joining the Anti-Balaka, P-1339 testified that he was not interested in politics but because of the Seleka's looting he was forced to behave a different way.[1018] He also indicated that young people who joined Yekatom's group told them that they wanted to take up arms to defend their country because of what the Seleka were doing.[1019]

465. P-2251 recalled that a number of Anti-Balaka groups assembled at Kpata before the attack on Bangui on 5 December 2013 and that many more FACA members joined the Anti-Balaka groups there.[1020] There is no clear evidence before the Chamber as regards the number of people that eventually joined the Anti-Balaka by December 2013.[1021] The evidence in this case does not show whether the youths who joined the Anti-Balaka were associated with COCORA and COAC or whether these groups continued to exist in late 2013.

v. Leadership

466. P-2232 testified that 'Dedane', 'Richard Bozouan' and 'Hypolite Azounou' created a 'self-defence movement' in the provinces, with Dedane being the only former soldier

54; P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-056-CONF-ENG, p. 76. P-1339 and P-0884 testified that Alfred Yekatom was also known as 'Rambo' and 'Rombhot': P-1339: T-131, p. 29; P-1339, T-132, p. 11; P-0884: CAR-OTP-2072-1516, at 1520; P-0884: T-078, p. 17.

[1014] P-1339: T-131, pp. 34-35; P-1339: T-133, pp. 13-14, referring to CAR-OTP-2102-0105, at 0112, para. 32.

[1015] P-1339: T-131, p. 29.

[1016] P-1339: T-131, p. 35; P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-055-CONF-ENG, p. 74.

[1017] P-1339: T-131, p. 24.

[1018] P-1339: T-131, p. 13.

[1019] P-1339: T-131, p. 35.

[1020] P-2251: CAR-OTP-2093-0045, at 0058, paras 82-84, 86.

[1021] Jean-Jacques Demafouth testified that he had estimated that the number of Anti-Balaka taking part in the conflict were around 12,000 soldiers but that Ngaïssona later maintained that they had around 30,000 soldiers. However, Jean-Jacques Demafouth believed that this figure had been exaggerated with the hope of obtaining financial benefits during the DDR process: P-2328: CAR-OTP-2099-0165, at 0179, para. 70, draft translation: CAR-OTP-00000147, at 000014-000015, para. 70. As regards the timeframe of estimates provided by Jean-Jacques Demafouth, there is no indication in his evidence about which timeframe these concerned and what they were based on. P-0966 stated that there was a total of 52,000 Anti-Balaka in the country, but he had learned of this number later in Bangui when the number of members were counted by the Anti-Balaka ComZones: P-0966: CAR-OTP-2031-0241, at 0246, para. 29. The Chamber understands P-0966's evidence to refer to a period in 2014. There is no indication in P-0966's evidence of the estimated number of Anti-Balaka members at any point in time in 2013.

within this founding group.[1022] P-0966 recalled that Dedane (who had previously been a '*Corporal-Chef*' in Bozizé's Presidential Guard) had created a command structure when he (P-0966) arrived in Gobere, which would have been around late June or early July 2013.[1023] P-0966 also testified that Dedane was coordinating operations with Maxim Mokom, a police official under Bozizé, and was reporting to Mokom and receiving orders from Mokom by cell phone.[1024] P-0966 identified Thierry Lebene (alias Douze Puissances, who had previously been a farmer and butcher)[1025] as Dedane's deputy.[1026]

467. P-0966's testimony regarding Dedane's coordination of operations in Gobere is supported by P-2232.[1027] Witnesses identified other leaders of the group in Gobere as including Andjilo (who had formerly been in the Anti-Zaraguina),[1028] Benjamin Ouapoutou (formerly a civilian),[1029] Kema (formerly a member of the FACA),[1030] and Dangba (formerly a member of the FACA).[1031]

[1022] P-2232: T-102, pp. 21-22; P-2232: T-104, p. 22. P-2269 testified similarly regarding the early involvement of someone called Richard Bezouane: P-2269: CAR-OTP-2111-0336, at 0342, para. 46.
[1023] P-0966: CAR-OTP-2031-0241, at 0246, 0247, paras 31, 33.
[1024] P-0966: CAR-OTP-2031-0241, at 0246-0247, paras 31, 33. *See also* P-2232: T-102, pp. 21-22. The Chamber notes that P-2232 testified that '[f]rom Gobere they contacted Maxime Mokom, who gave them instructions about operations in the field. And from there, each village would set up a group of self-defence, a militia, and that is how the Anti-Balaka movement was born. In the provinces, everything was coordinated by Dedane, who reported directly to Maxime Mokom, who was responsible for operations.' In the sequence of events described by P-2232, he also places Dedane going to Bossangoa and the creation of a self-defence movement in the period after the firing of the shells at Michel Djotodia's inauguration on 18 August 2013. Having regard to both P-0966 and P-2232's evidence, the Chamber could not ascertain when the coordination activities between Dedane and Maxime Mokom would have begun.
[1025] P-0884: CAR-OTP-2072-1814, at 1846-1848; P-2251: T-067, p. 19.
[1026] P-0966: CAR-OTP-2031-0241, at 0246-0247, paras 31, 33. *See also* P-2269: CAR-OTP-2111-0336, at 0342, para. 46; P-0884: CAR-OTP-2072-1849, at 1864; P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-055-CONF-ENG, p. 27 (confirming that Thierry Lebene was also known as Douze Puissanaces); P-2232: T-102, pp. 25-26; P-2251: CAR-OTP-2093-0045, at 0050, 0078, paras 35, 212.
[1027] P-2232: T-102, pp. 21-22, 25, 34; P-2232: T-104, p. 22. P-2251 and P-2269 also testified that Dedane was a chief in Gobere: P-2251: CAR-OTP-2093-0045, at 0078, para. 212; P-2269: CAR-OTP-2111-0336, at 0342, para. 46. *See also* P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-055-CONF-ENG, p. 38.
[1028] Witnesses recalled Andjilo as a civilian from Bouca, who was also an Anti-Zaraguina, although P-0966 testified that he was not really known in Gobere and only became more important within the movement later. *See* P-2232: T-103, p. 17; P-2269: CAR-OTP-2111-0336, at 0342-0343, para. 46, 48-50; P-2251: CAR-OTP-2093-0045, at 0050-0051, para. 35; P-0966: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-117-CONF-ENG, pp. 41-42.
[1029] P-2269: CAR-OTP-2111-0336, at 0342, para. 46; P-2251: CAR-OTP-2093-0045, at 0049, paras 22-23; P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-055-CONF-ENG, p. 26. P-0966 testified that he had heard from a fetish seller, who was an Anti-Balaka ComZone by the name of Benjamin Ouapoutou, that 'we had to go back to Gobere to defend our country against the Sudanese and Chadian mercenaries': P-0966: CAR-OTP-2031-0241, at 0245, para. 23; P-0966: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-116-ENG, pp. 8, 11; P-0966: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-117-ENG, p. 6.
[1030] P-0966: CAR-OTP-2031-0241, at 0246-0247, paras 31, 33.
[1031] P-0884: CAR-OTP-2072-1849, at 1859; P-2251: CAR-OTP-2093-0045, at 0078, paras 212, 216.

vi. Time frame

468. The testimony of P-0966 and P-2251 who both arrived in Gobere at an early stage, indicates that the gathering there began in late June or early July 2013.

469. P-1339 is the only witness who provided information regarding when Yekatom's group began gathering in Kalangoi, and the Chamber did not find his estimates of the timing of events to be reliable generally.[1032] Nevertheless, it is satisfied on the basis of his testimony as a whole that this gathering commenced a few months prior to the attack on Bangui in December 2013.[1033]

470. Other witnesses, who were not among those gathering in Gobere or Kalangoi, have provided their assessments of when they heard and/or saw of the Anti-Balaka movement emerging publicly, with the earliest estimates being from one to two months after the Seleka takeover, and general estimates by witnesses being between July 2013 to August 2013.[1034]

vii. Structure and preparation

471. In what follows, the Chamber has also considered how the witnesses described the organisation of the Anti-Balaka, suggesting that its members were grouped into

[1032] *See* above paras 147-152.
[1033] P-1339: T-131, pp. 34-35; P-1339: T-133, pp. 13-14, referring to CAR-OTP-2102-0105, at 0112, para. 32. P-1339 testified that he could not recall when [REDACTED] went to Kalangoi, but subsequently stated that [REDACTED] spent about two weeks or slightly longer in Kalangoi until many young people joined and [REDACTED] had to move, [REDACTED] then went to [REDACTED] (where they procured weapons as discussed below) where [REDACTED] spent about one month before moving on to Gbangba, where [REDACTED] spent approximately three months up until 5 December 2013. This indicates that [REDACTED] in Kalangoi in mid-July 2013. When examined by the Defence, P-1339 was shown his statement in which he said that 'so I think it was around August 2013 when I heard about people gathering in the bush to fight the Seleka' and he confirmed that this was correct.
[1034] P-2232: T-102, p. 24. Nicolas Tiangaye testified that he could not give a precise date for when the group began to have a form, but he believed that 'they were created well before December 2013'. According to him, the first incident that made it possible to realise their existence was their attack against the Seleka on 5 December 2013: P-0291: T-062, p. 62. Jean-Jacques Demafouth agreed that, based on the information he received while he was at M'Poko, it was his understanding that the organisation of the Anti-Balaka began shortly after the coup by the Seleka. Jean-Jacques Demafouth stated that he 'knew that the Anti-Balaka were already forming into a proper structure with real leaders in Cameroon' and placed it in time when he himself was in Cameroon on mission, which the Chamber notes took place in September 2013. When asked by the Presiding Judge about the period when the Anti-Balaka was emerging in places like Damara, Bambari and Sibut, Jean-Jacques Demafouth testified that by July 2013, they were appearing in public in these towns and even around Bangui. *See* P-2328: T-130, pp. 28-29; P-2328: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-046-CONF-ENG, pp. 79, 88-89; mission order, CAR-OTP-2075-1289.

companies,[1035] and their ranks were sometimes self-designated.[1036]

472. P-2269 [REDACTED] and P-0966 (a civilian) gave evidence of [REDACTED] those in Gobere, both referring to the existence of [REDACTED] groups, each with its own chief, with a varying number of individuals in each group.[1037] P-2269 stated that the [REDACTED] groups were 'constantly in contact with one another' and P-0966 testified that the lists were constantly updated and sent to Maxime Mokom.[1038]

473. P-2251 stated that Gobere became like a large village for those who had fled and who preferred to stay together, in a group, out of fear.[1039] Witnesses described the living conditions in Gobere as very difficult given that there was no shelter from the rain and very limited food available.[1040] P-2251 explained that when they went to fetch water or food, they were afraid that they would be attacked by the Seleka and that it was tough to even get a small piece of maize or cassava.[1041] P-2251 described how they organised themselves there: people from each town would sleep together with people from their own region, whereas the leaders stayed in the centre of the different zones, where they

[1035] P-0966: CAR-OTP-2031-0241, at 0246, para. 29; P-0966: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-117-ENG, p. 38. P-0966 stated that people were divided into 14 groups or companies, each of which had 'between 500 and 1000 persons, if not more' and that each company was divided into four sectors, and dispatched to areas according to the province of origin of its members. P-2251 similarly recalled there being different groups with chiefs: a group each for Bossembele, Bouca, Bogangolo and Bossangoa; the various villages regrouped together, and they formed a group within that group: P-2251: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-044-CONF-ENG, p. 32.
[1036] P-2269: CAR-OTP-2111-0336, at 0338, para. 12. [REDACTED]. P-0966 stated that one's rank depended 'on the number of men you commanded' and 'if you had a certain rank, you would be called the *chef du groupe*, the group leader'; 'we were all civilians, and base commanders had a certain rank' adding that, for example, 'Mauri, who was called a general was not a general, he was a civilian': P-0966: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-117-ENG, p. 4. P-2251, asked about ranks, stated that at that time he had 'no clue about any ranks' and did not 'see any ranks'; 'the Balaka did not have real ranks' and only the soldiers were the ones that had valid ranks: P-2251: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-044-CONF-ENG, pp. 30, 34.
[1037] P-0966: CAR-OTP-2031-0241, at 0247-0248, paras 36, 38-39; P-0966: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-116-CONF-ENG, pp. 17-18. P-2269: CAR-OTP-2111-0336, at 0346, para. 77, at 0358, para. 169, referring to list, CAR-OTP-2111-0367 (a photographed copy of a handwritten list [REDACTED]).
[1038] P-2269: CAR-OTP-2111-0336, at 0343, 0346, paras 55, 77; P-0966: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-116-CONF-ENG, pp. 18-19.
[1039] P-2251: CAR-OTP-2093-0045, at 0050, para. 32.
[1040] P-0966: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-117-ENG, pp. 13-14, 42; P-0966: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-118-CONF-ENG, pp. 60-61; P-2251: CAR-OTP-2093-0045, at 0050, para. 33; P-2251: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-044-CONF-ENG, p. 9; P-2251: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-043-CONF-ENG, p. 11. *See also* addendum to P-2251's prior recorded testimony, CAR-OTP-00036201, at 00001.
[1041] P-2251: CAR-OTP-2093-0045, at 0050, para. 32.

exchanged ideas and strategies.[1042]

474. The Chamber takes note of the limited weapons available at Gobere during the period under consideration. As regards weapons available at Gobere, witnesses described having stones, wood sticks and makeshift fire weapons, hunting rifles, machetes and fetishes.[1043] Both P-0966 and P-2251 recalled how certain individuals acquired fetishes or *gris-gris* for their protection.[1044] The Chamber received evidence that wearing *gris-gris* was an ancestral practice and many Anti-Balaka members acquired them as a means of self-protection.[1045]

475. The Chamber received evidence regarding at least one supply of weapons (nine AK-47s, one DKM and two boxes of AK-47s) from Bangui to Dedane in Bossangoa, facilitated by P-2269 [REDACTED] before the attack on Bangui (December 2013) and after Michel Djotodia's swearing-in ceremony (August 2013).[1046] [REDACTED] also described buying spare weapons from the Seleka.[1047] Witnesses recalled the Anti-Balaka also obtaining weapons that had been left behind by the Seleka when they clashed during the

[1042] P-2251: CAR-OTP-2093-0045, at 0050, para. 34.
[1043] P-0966: CAR-OTP-2031-0241, at 0248, para. 41; P-0966: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-117-ENG, p. 5; P-2251: CAR-OTP-2093-0045, at 0052, para. 45. *See also* P-2251: ICC-01/14-01/18-T-043-CONF-ENG, pp. 20-21.
[1044] P-0966: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-117-ENG, p. 11; P-0966: CAR-OTP-2031-0241, at 0246, para. 30. P-0966 stated that 'everyone who went to Gobere bought fetishes with their own money' and 'some of that money, Mauri (a fetish seller), lent that money so that we could survive' and 'once we got to Bangui, we were going to pay back that debt.' P-0966 stated that people gathering in Gobere came from Bozoum, Bossembélé, Bouar, Baoro, Berberati, and Carnot, and then returned to their villages to recruit in their locality and share the fetishes they received from the marabout in Gobere to make themselves stronger to fight, adding that when the 'men returned to their villages they proclaimed themselves Chiefs with their fetishes.' [REDACTED]: P-2251: CAR-OTP-2093-0045, at 0049, para. 23.
[1045] The Chamber notes that the Prosecution argues that the recruits in Gobere were 'provided with *gris gris*' and that the Anti-Balaka from the provinces were identifiable as wearing *gris-gris*. *See* Prosecution Closing Brief, ICC-01/14-01/21-1027-Red, para. 39. The Chamber has received evidence about *gris-gris* and how those in Gobere acquired them. P-2251, who was at Gobere and got a *gris-gris* himself for self-protection, stated that wearing *gris-gris* was an ancestral practice of hunters to protect themselves against wild animals during their hunting activities in the bush. P-2251 mentioned that there were 'oaths taken for the *gris-gris* and there are principles of that oath that must be complied with'; meaning that, one could not be harmed or suffer any prejudice if the oath was complied with and respected. P-2251, when asked, agreed that it was not only the Anti-Balaka who wore *gris-gris* and that other groups also wore *gris-gris*. P-2251, when commenting on how the groups were organised in Gobere, stated that civilian chiefs carried *gris-gris* and made these *gris-gris* and 'gave it to their elements to identify them'. *See* P-2251: CAR-OTP-2093-0045, at 0053, paras 48, 51; P-2251: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-044-CONF-ENG, pp. 6-7, 31. [REDACTED].
[1046] [REDACTED]; P-2269: CAR-OTP-2111-0336, at 0345, para. 68. P-2269 stated that, after he took the weapons back to Dedane, they divided up the weapons and ammunition [REDACTED]; P-2269 returned to Gobere after dropping the weapons off in Bossangoa.
[1047] [REDACTED].

Anti-Balaka's advance to Bangui, both of which began after August 2013.[1048]

476. P-2269 and P-0966 testified that training was provided to those gathered at Gobere,[1049] P-2251 also confirmed that persons gathered at Gobere were provided with military training,[1050] although he indicated that he personally was not provided with training.[1051]

477. As regards financing, there is evidence that the groups in Gobere were financed through various means, including personal funds,[1052] through financial transfers from Cameroon through the Republic of the Congo[1053] and from Patrice-Edouard Ngaïssona, at least while the Anti-Balaka were in Gobere,[1054] and subsequently from goods and other possessions left behind after the fighting.[1055] P-0966 stated that 'people believed that Bozizé was behind our operations' but had this been the case, they would have had more means and weapons to fight.[1056] Apart from indications that financial support by Ngaïssona was provided when the Anti-Balaka were in Gobere, there is no reliable evidence in this case of the timeframe of these activities, specifically whether these took place prior to 31 August 2013.

478. Turning to the Prosecution's allegations concerning Kalangoi and Alfred Yekatom's group, the Chamber notes that it received evidence from P-1339 that this group was also mobilising in the region south-west of Bangui in the months leading up to December

[1048] P-2269: CAR-OTP-2111-0336, at 0345, para. 67; P-0966: CAR-OTP-2031-0241, at 0248, para. 41; P-0966: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-118-CONF-ENG, p. 58; P-2232: T-102, p. 39; P-0405: CAR-OTP-2107-4555, at 4568-4570.
[1049] P-2269: CAR-OTP-2111-0336, at 0343, para. 53; P-0966: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-116-CONF-ENG, p. 27.
[1050] P-2251: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-043-CONF-ENG, pp. 16-18, referring to video, CAR-OTP-2084-1263, at 00:03:00 to 00:04:00, transcript: CAR-OTP-2107-1565.
[1051] P-2251: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-043-CONF-ENG, pp. 18-19.
[1052] P-2269: CAR-OTP-2111-0336, at 0341, paras 35-37. [REDACTED]. *See also* P-2251: ICC-01/14-01/18-T-044-CONF-ENG, p. 31; P-2251: CAR-OTP-2093-0045, at 0050-0051, para. 35.
[1053] [REDACTED]. Jean-Jacques Demafouth stated that Bernard Mokom had gone to Cameroon with Bozizé and Bozizé had given him money to be distributed to the Anti-Balaka: P-2328: CAR-OTP-2099-0165, at 0182, para. 92, draft translation: CAR-OTP-00000147, at 000018-000019, para. 92. His claims in this regard are unsupported by other evidence in this case.
[1054] P-2269: CAR-OTP-2111-0336, at 0350, para. 108. P-2269 stated that, while they were in Gobere and Cameroon, they received 1 million CFA from Ngaïssona on three occasions while they were in Gobere. According to P-2269, Ngaïssona would transfer money from Cameroon and someone would collect the money in Bangui using a Money Gram, which would be collected and brought to Gobere. *See also* P-2328: CAR-OTP-2099-0165, at 0192, paras 140-141, draft translation: CAR-OTP-00000147, at 000028, paras 140-141.
[1055] P-2232: T-102, p. 40.
[1056] P-0966: CAR-OTP-2031-0241, at 0247, para. 32.

2013.[1057] As regards weapons, P-1339 gave evidence that soldiers [REDACTED] arrived with their weapons and some of them went and dug up the weapons that they had buried before fleeing.[1058] P-1339 stated that Alfred Yekatom's group began to obtain weapons [REDACTED] before the attack on Bangui on 5 December 2013.[1059]

479. There is no other indication in the evidence in this case about whether the Anti-Balaka had military capacity to mount an attack against the Seleka prior to September 2013. There is also no evidence in this case concerning the number of people that had joined the Anti-Balaka by September 2013, or estimates thereof. The Chamber received no evidence as to the existence of any internal disciplinary system or training on the rules of IHL across these groups during this time and was unable to draw any conclusions in this regard.

viii. Communication

480. As regards communication between various groups, witnesses gave evidence of some chiefs being able to regularly communicate by phone, while at the same time, there being no possibility of telephone communication in Gobere.[1060] The Chamber received evidence that Dedane Danboy at Gobere was responsible for reporting to Maxime

[1057] P-1339: T-131, p. 29, 34-35; P-1339: T-133, pp. 14-21. *See also* P-2269: CAR-OTP-2111-0336, at 0343-0344, para. 56; P-0884: CAR-OTP-2072-1516, at 1522-1523; P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-055-CONF-ENG, pp. 72-73. Jean-Jacques Demafouth recalled 'Rambo Yekatom' being one of the Anti-Balaka leaders; he stated that even though 'Rambo' was only a lance corporal, he had a hundred or so FACA at his disposal: P-2328: CAR-OTP-2099-0165, at 0176-0177, paras 60, 62, draft translation: CAR-OTP-00000147, at 000012-000013, paras 60, 62. The Chamber notes that Jean-Jacques Demafouth's evidence does not indicate the time frame of the gathering of Yekatom's group or the number of persons involved. P-1339 described how new recruits would be registered and assigned into a section, with each section comprising 30-40 people: P-1339: T-131, pp. 31, 36.

[1058] P-1339: T-131, p. 34.

[1059] P-1339: T-131, p. 34. P-1339 could not remember the exact date that [REDACTED] went to purchase weapons [REDACTED] and recalled only that it was before 5 December 2013: P-1339: T-133, p. 24. According to him, [REDACTED] did not have weapons in Kalangoi and it was only in [REDACTED] that young people started being trained in the handling of weapons.

[1060] P-2251: CAR-OTP-2093-0045, at 0051, 0054, 0056, paras 40, 56, 73; P-2251: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-043-CONF-ENG, p. 22; P-2251: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-044-CONF-ENG, pp. 29-30. P-2251 recalled there being no telephone network in Bouca and Bogangolo and there being no telephones or mobiles that people could use at the time, although he indicated that he was not aware whether their leaders were communicating with anybody. P-0966 stated that few people had cell phones and that in his company, no one had a cell phone; he testified that having cell phones was prohibited, only chiefs had phones, and ordinary members of the group did not have one: P-0966: CAR-OTP-2031-0241, at 0248, para. 40; P-0966: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-117-ENG, pp. 16, 38-39; P-0966: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-118-CONF-ENG, p. 59.

Mokom, coordinating, communicating and transmitting instructions.[1061] The Chamber also received evidence that Maxime Mokom received information about those in Gobere and provided instructions about the operations in the field.[1062] P-2269 stated that he was in communication with Rombhot from Gobere and they kept each other informed as to their location.[1063] Based on this evidence alone, the Chamber was unable to determine when such communication was taken place and therefore, it could not assess when the Anti-Balaka groups had sufficient bearings to communicate between each other and with Maxime Mokom in respect of military actions.

481. There is evidence of email exchanges between individuals purportedly linked to François Bozizé from at least May 2013 to September 2013 who were strategising about organising a response to the Seleka.[1064] There is no evidence in this case that any of the

[1061] P-2232: T-102, pp. 22, 25; P-2232: T-104, p. 22. P-2232 stated that in the provinces, everything was coordinated by Dedane, who reported directly to Maxime Mokom, who was responsible for operations; Dedane was chosen to be the head of military staff, whereas Richard Bozouan [REDACTED]. P-0966 gave evidence that Dedane was responsible for communication and regularly transmitted messages to the chiefs of the groups and instructions that Dedane passed on through his military comrades (such as which Seleka bases to attack) would be further disseminated down the line to the Anti-Balaka: P-0966: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-117-ENG, pp. 44, 50-51; P-0966: CAR-OTP-2031-0241, at 0246-0247, paras 31, 33.

[1062] P-0966: CAR-OTP-2031-0241, at 0246-0247, paras 31, 33-34; P-0966: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-117-ENG, p. 38. P-0966 stated that Dedane would communicate with Maxim Mokom by cell phone and would call the chiefs of the companies together to give instructions that he had received from Mokom. P-2232 stated that from Gobere they contacted Maxime Mokom, who gave them instructions about operations in the field; from there, each village would set up a group of self-defence, a militia, and that is how the Anti-Balaka movement was born: P-2232: T-102, p. 22. P-2269 stated that, while he was in the bush, he maintained contact with Maxime Mokom and the other chiefs and they kept each other informed as to their situation, location and where to move next: P-2269: CAR-OTP-2111-0336, at 0343, 0346-0347, paras 54-55, 77-79. P-0966 gave evidence about how he kept a register of companies and the members, which he provided to Kema, who then forwarded them to Maxime Mokom; these lists would be kept so that true numbers of the Anti-Balaka moving towards Bangui could be determined; 'once power was taken, we – civilians would be rewarded once we got to Bangui' and that 'the chiefs, the leaders, would pay these debts': P-0966: CAR-OTP-2031-0241, at 0247, para. 36; P-0966: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-116-CONF-ENG, pp. 15-21.

[1063] P-2269: CAR-OTP-2111-0336, at 0343-0344, para. 56. P-1339 testified that at the beginning of the movement, only the leaders had telephones and Alfred Yekatom had a satellite phone and he was the one who communicated and gave 'orders to assemble […] elements', although P-1339 stated that he did not know with whom Alfred Yekatom would converse: P-1339: T-132, pp. 19-20; P-1339: T-133, p. 29. The Chamber further notes P-1339's evidence that he was in the bush, he was not aware of 'the existence of another movement' and it was only after 4 December 2013 that 'we discovered that there was another movement which was preparing for the attack and [Alfred Yekatom] started to discuss this with them: P-1339: T-133, p. 29. The Chamber considers that P-1339's lack of knowledge of another movement elsewhere did not mean that other movements did not exist; nor does it contradict P-2269's evidence that he was in contact with Alfred Yekatom.

[1064] The Chamber notes the Defence's objections concerning the authenticity and reliability of these emails: Defence Response to the Prosecution Fourth Bar Table Motion, ICC-01/14-01/21-332-Conf, paras 16-19. The Chamber considers that the Prosecution provided little to no information to assess whether these email accounts and the emails sent were in fact attributable to the persons concerned, and therefore, could not ascertain their authenticity or reliability. In any event, the Chamber did not consider these emails to be significant to its overall assessment of the evidence. The Chamber received emails attributed to Patrice-Edouard Ngaïssona. *See* email,

interlocutors involved in these email exchanges were acting at the behest of François Bozizé.

482. P-0884, who was in Bangui at the time [REDACTED], testified that Bernard Mokom contacted him towards the latter half of August 2013 and that Patrice-Edouard Ngaïssona contacted him in September 2013, and that subsequently, he was in regular contact with Ngaïssona.[1065] P-0884 stated that Bernard Mokom gave his number to Maxime Mokom, who called him frequently to know what was happening in Bangui, about the security situation and whether the Seleka were carrying on killing in Bangui.[1066] P-0884 stated that Maxime Mokom said that 'he was holding meetings in the provinces' and indicated there being a movement in the provinces, the Anti-Balaka.[1067]

ix. Security situation in CAR generally

483. In its assessment, the Chamber also has regard to the security situation in CAR at the

CAR-OTP-2130-3466 (dated 10 May 2013 from Thierry Bongolo to Patrice-Edouard Ngaïssona and others refers to organising a strategy); email chain, CAR-OTP-2130-3490, CAR-OTP-2130-3493, CAR-OTP-2130-3497, CAR-OTP-2130-3501, CAR-OTP-2130-3505 (dated June 2013 concerning a plan of action to organise civil resistance, with attachments, CAR-OTP-2130-3406, CAR-OTP-2130-3407); email chain, CAR-OTP-2130-3296, CAR-OTP-2124-0789, CAR-OTP-2124-0844 (between July and September 2013 between Alfred Legrand Ngaya and Ngaïssona concerning organising a popular insurrection in Bangui and sharing FROCCA's press release from August 2013); email chain, CAR-OTP-2124-0903 (requests for military supplies are being sent to Ngaïssona in October 2013 on behalf of an Anti-Balaka group situated in the south). The Chamber notes that, in its trial brief, the Prosecution did not attribute any role to Thierry Bongolo or Alfred Ngaya in the armed forces, François Bozizé's government or in the Anti-Balaka. *See also* a set of emails from August 2013 onwards showing Ngaïssona liaising with individuals, to whom the Prosecution has not attributed any specific action, CAR-OTP-2130-3639, CAR-OTP-2130-3641, CAR-OTP-2130-3643, CAR-OTP-2130-3667, CAR-OTP-2124-0785, CAR-OTP-2084-0605, CAR-OTP-2084-1046, CAR-OTP-2084-0912, CAR-OTP-2084-0781, CAR-OTP-2084-0606, CAR-OTP-2084-0608, CAR-OTP-2084-1000, CAR-OTP-2084-1003, CAR-OTP-2084-1084, CAR-OTP-2084-1045, CAR-OTP-2084-1008. The Chamber also received emails and attachments exchanged between Charles Ngremangou and Steve Yambete, whom the Prosecution claimed were Anti-Balaka leaders. *See* Prosecution Trial Brief, ICC-01/14-01/21-359-Red, para. 39. *See also* emails, CAR-OTP-2126-2629, CAR-OTP-2126-2632, CAR-OTP-2126-2634, CAR-OTP-2126-2645, CAR-OTP-2126-2646, CAR-OTP-2126-2697, CAR-OTP-2126-2702, CAR-OTP-2126-2707, CAR-OTP-2126-2712, CAR-OTP-2126-2718; attachments, CAR-OTP-2126-2630, CAR-OTP-2126-2633, CAR-OTP-2126-2635, CAR-OTP-2126-2637, CAR-OTP-2126-2639, CAR-OTP-2126-2647, CAR-OTP-2126-2651, CAR-OTP-2126-2655, CAR-OTP-2126-2698, CAR-OTP-2126-2703, CAR-OTP-2126-2708, CAR-OTP-2126-2713, CAR-OTP-2126-2719. The Chamber received an email exchanged between Charles Ngremangou and an email account '[REDACTED]'. *See* email, CAR-OTP-2126-2722 (with attachment CAR-OTP-2126-2723). The Chamber also received emails and attachments from Charles Ngremangou sharing information about FACA in Bangui to individuals, to whom the Prosecution has not attributed any specific action. *See* emails, CAR-OTP-2126-2607, CAR-OTP-2126-2612, CAR-OTP-2126-2619, CAR-OTP-2126-2626, CAR-OTP-2126-2628, CAR-OTP-2126-2640; attachments, CAR-OTP-2126-2608, CAR-OTP-2126-2613, CAR-OTP-2126-2614, CAR-OTP-2126-2620, CAR-OTP-2126-2641, CAR-OTP-2126-2643, CAR-OTP-2126-2644.

[1065] P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-055-CONF-ENG, pp. 16, 48.

[1066] P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-055-CONF-ENG, pp. 17, 18.

[1067] P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-055-CONF-ENG, pp. 18-22.

relevant time and whether it reflected military preparations for the resumption of hostilities being undertaken by the Seleka.

484. P-0342 testified that, after the takeover of Bangui in March 2013, 'there were days and weeks of a dead town', 'everything was blocked' and people did not go to work; the children in some private schools were back at school 'so everybody was relieved'; he added that it was difficult for public schools as they depended on the state.[1068] There is evidence that the Seleka set up bases in Bangui and continued to train their members during this time.[1069] There is also evidence that the number of Seleka present in Bangui increased as the year progressed.[1070]

485. As regards the collection of intelligence on the security situation in Bangui, Jean-Jacques Demafouth, who had supervised the collection of military intelligence in the period before the charges,[1071] testified that the intelligence service did not function well at the time because 'the instruments that make it possible to collect information, police and gendarmerie, were not functioning well'; Demafouth recalled that while the Seleka had set up a documentation service led by Nouradine Adam, that 'service was totally out of control, so they were the only ones who managed that'; Demafouth added that whatever little intelligence was produced, 'came from the police and the gendarmerie, but they were not very efficient, so we relied a bit more on the population', including neighbourhood leaders.[1072] Some of these intelligence reports dated between July 2013 and September 2013 are before the Chamber.[1073]

486. There is evidence that Michel Djotodia, through a presidential order dated 25 June 2013, created an interministerial structure called the CNS, which met on a weekly basis, presided by the President and the Prime Minister, and its members included certain ministers, chiefs of the armed forces, and directors general of the security forces; the

[1068] P-0342: T-126, pp. 3-4, referring to [REDACTED].
[1069] *See* below paras 771-772, 788-789.
[1070] *See* below para. 780.
[1071] P-2328: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-050-CONF-ENG, pp. 17-18.
[1072] P-2328: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-047-CONF-ENG, pp. 5-7. *See also* P-0291: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-050-CONF-ENG, pp. 4-6.
[1073] Reports, CAR-OTP-2075-0906 (July 2013); CAR-OTP-2075-0908 (July 2013); CAR-OTP-2075-0933 (August 2013); CAR-OTP-2034-3552 (September 2013); CAR-OTP-2075-0985 (September 2013). *See also* P-0291: ICC-01/14-01/18-T-051-CONF-ENG, pp. 32-33, referring to reports, CAR-OTP-2075-0906, CAR-OTP-2075-0933.

presidential order mentioned that the CNS could also meet in case of emergency at the request of the President or the Prime Minister.[1074] There is no evidence before the Chamber suggesting that there were any CNS meetings called in emergency.

487. Jean-Claude Sophil stated that the Seleka were convinced that members of the army who had defected on the other side of the river were arming themselves to carry out an attack.[1075] Jean-Claude Sophil testified that Nouradine Adam showed him a message on his phone saying that there were people just over the river in the DRC who were ready to attack the Seleka and said that if he and Tolmo released persons whom he suspected to have been involved in the coup it meant that they were also involved.[1076] There is also evidence of Nouradine Adam issuing mission orders directing certain police officials to go on mission to Zongo and Betou in the Republic of the Congo between May and August 2013.[1077]

488. There is evidence of the CNS meetings taking place in September and October 2013.[1078] The minutes of the CNS meeting of 18 September 2013 show that the agenda included the following: (i) sending a commission of inquiry to the 'conflictual' areas ('*les zones conflictuelles*'); (ii) delivery of humanitarian aid to the population affected by 'the recent events'; (iii) sending a FACA contingent to provide security for the population in the crisis zones ('*des zones en crise*'); (iv) feeding cantoned ex-combatants; (v) evaluation of the disarmament operation in Bangui; (vi) security situation in communes including Bossangoa and Bouca (handwritten); (vii) and 'cohabitation' with international NGOs

[1074] Presidential order, CAR-OTP-2005-0380, at 0380-0382; P-0291: T-062, p. 15; P-0291: T-060, pp. 17-18, referring to list, CAR-OTP-2101-3718 (titled 'Meeting of National Security Council' dated 11 September 2013 containing a list of attendees). *See also* P-2328: CAR-OTP-2099-0165, at 0216, para. 267, draft translation: CAR-OTP-00000147, at 000052, para. 267; P-2328: T-130, pp. 23-24; P-2328: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-047-CONF-ENG, pp. 5-7; P-0291: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-050-CONF-ENG, pp. 4-6.
[1075] Addendum to P-0787's prior recorded testimony, CAR-OTP-00000594, at 00007.
[1076] P-0787: CAR-OTP-2036-0410, at 0428, para. 86.
[1077] Mission orders, CAR-OTP-2034-2837 (to Zongo in May 2013); CAR-OTP-2034-3090 (to Zongo in July 2013); CAR-OTP-2034-3103 (August 2013); CAR-OTP-2034-4018 (set of documents from September and July 2013). *See also* [REDACTED]; [REDACTED] *Ordre de Mission*, CAR-OTP-2034-2876 (August 2013 regarding installation of police commissariats in several locations outside of Bangui).
[1078] List, CAR-OTP-2101-3718 (attendees of a meeting dated 11 September 2013); agenda, CAR-OTP-2075-0999 (meeting dated 18 September 2012); list, CAR-OTP-2075-1166 (attendees of a meeting dated 9 October 2013); report, CAR-OTP-2034-3627 (meeting dated 30 October 2013); report, CAR-OTP-2079-1004 (meeting dated 30 October 2013). *See also* P-0291: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-051-CONF-ENG, pp. 39-42, referring to report, CAR-OTP-2079-1004.

(handwritten).[1079]

489. The minutes of the CNS meeting of 30 October 2013 made reference, *inter alia*, to the continuation of efforts for the restitution of materiel obtained in Zongo, the deployment of the police and gendarmerie, a disarmament operation in Bangui, and the security situation in Bouar.[1080] These minutes stated that the Minister of Public Security gave a general presentation of the security situation in the country, and noted the following: (i) the existence of military training across the country, including in the Gbozo locality; (ii) the 'appeal of the Anti-Balaka' to a number of 'adventurers', including the former Head of State ('*L'attrait des Antibalakas par un certain nombre d'aventuriers de tous bords dont notamment l'ancien Chef de l'Etat*'); and (iii) the numerous terrorists in the countryside.[1081] The minutes stated that the Prime Minister had clearly indicated that the Anti-Balaka, which at the time constituted a response from the exacerbated population, is today the object of political recuperation and becoming a politico-military movement.[1082] The 'Chef du Gouvernement' underlined that the following measures would be urgently required, *inter alia*: 'the deployment of security and defence forces throughout the entire territory which would reassure the population', 'the reinforcement of the FOMAC presence to serve as a buffer', 'coordination between the actions of the Ministry of Public Security and Ministry in charge of the National Defence', 'reinforcement of military discipline', 'restoration of state authority', and the 'reestablishment of an army that is truly republican, professional and takes into account geopolitics'.[1083]

490. Nicolas Tiangaye, questioned about whether the CNS discussed the situation of the Anti-Balaka, testified that he did not recall when the Anti-Balaka issues were discussed in the course of these meetings.[1084]

491. Jean-Jacques Demafouth gave evidence about missions by senior members of the government to countries bordering CAR, including the Republic of the Congo, Cameroon

[1079] Agenda, CAR-OTP-2075-0999, at 0999. The Chamber notes that while the document refers to 'conflictual zones' ('*les zones conflictuelles*'), there is no explanation as to which areas this concerns. The reference in the document to locations like Bossangoa and Bouca concern the security situation there. There is no link made in the document between '*les zones conflictuelles*' and these locations.
[1080] Minutes, CAR-OTP-2034-3627, at 3628-3629.
[1081] Minutes, CAR-OTP-2034-3627, at 3633-3634.
[1082] Minutes, CAR-OTP-2034-3627, at 3634.
[1083] Minutes, CAR-OTP-2034-3627, at 3630-3635.
[1084] P-0291: T-062, p. 63.

and Chad in September 2013; during these missions they received intelligence on the conduct and behaviour of Central Africans in these countries, as well as information on the weapons that had been kept away in CAR and the weapons some had brought into the neighbouring countries.[1085] As part of one of these missions, Jean-Jacques Demafouth recalled receiving information from the Cameroonian authorities on François Bozizé's activities and conversations in Cameroon.[1086]

492. In its overall assessment of the security situation in Bangui at the time, the Chamber also has regard to its assessment of the evidence concerning the targeting of FACA members (former and continuing) in the period after the coup d'état, as the Seleka perceived them to be supportive of François Bozizé.[1087]

493. Based on the foregoing, the Chamber is satisfied that the Seleka suspected the former FACA members in exile in the DRC of posing a security threat to the Seleka in Bangui. The Chamber considers that these suspicions may have also contributed to their targeting of current and former FACA members who remained in Bangui.

494. However, based on the evidence received in this case, the Chamber was not satisfied that, the Seleka were on a conflict footing and were preparing to engage or counter the groups that would later be known as the Anti-Balaka. The Chamber was similarly not satisfied that, during this time, the Seleka were aware of the extent to which the Anti-Balaka were gathering, recruiting and preparing with a view to engaging militarily against the Seleka. The Chamber notes that the CNS meetings refer to armed action in and around the Bossangoa region and the term Anti-Balaka only from September 2013. In the view of the Chamber, this was consistent with when the Anti-Balaka emerged publicly and carried out small-scale action in the Bossangoa region.

495. Jean-Jacques Demafouth stated that, by 15 November 2013, the Anti-Balaka already had a significant presence in Bangui, and that everyone was waiting for an event.[1088] Demafouth recalled seeing unarmed individuals walking around Bangui wearing charms,

[1085] P-2328: CAR-OTP-2099-0165, at 0209-0210, paras 237-238, 241, draft translation: CAR-OTP-00000147, at 000045-000046, paras 237-238, 241; P-2328: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-046-CONF-ENG, pp. 82-86; mission order, CAR-OTP-2075-1289.
[1086] P-2328: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-046-CONF-ENG, pp. 82-86.
[1087] *See* below paras 632 (factual finding), 749 (evidentiary analysis).
[1088] P-2328: CAR-OTP-2099-0165, at 0179-0180, para. 75, draft translation: CAR-OTP-00000147, at 000015-0000016, para. 75.

identifying themselves as Anti-Balaka.[1089] Jean-Jacques Demafouth recalled meeting Leopold Bara, former Minister of Youth in Bangui, who told him that the Anti-Balaka had already surrounded Bangui and were getting ready to launch their operations and that reinforcements would be coming from the provinces to support those in Bangui; upon verification of this information, Jean-Jacques Demafouth found that Anti-Balaka units were already in position in PK12, Boeing, behind the Bangui airport, and Ouango.[1090]

496. When talking about events just before the attacks on 5 December 2013, Jean-Jacques Demafouth testified that, while the Sangaris had not yet arrived in Bangui, he knew [REDACTED], who confirmed that something was underway; he recalled being told that the Anti-Balaka were waiting for orders from those in Cameroon and that any action should occur by 10 December 2013.[1091] Jean-Jacques Demafouth stated that Michel Djotodia's intelligence services also knew that something was going to happen, because there had already been clashes between the Anti-Balaka and the Seleka.[1092]

497. The situation in CAR continued to attract the attention of the international community throughout 2013 and the UN Secretary General noted a serious deterioration in the situation between August and December 2013 and a further deterioration in the security situation in CAR in 2014.[1093] In its final report dated December 2014, the UN Commission of Inquiry recognised the existence of a non-international armed conflict between the Seleka and the FACA from before 1 January 2013 and up until late March 2013, and again after 4 December 2013 between the Seleka and the Anti-Balaka.[1094] The Chamber received no evidence that the international community considered that an armed conflict not of an international character was ongoing between the Seleka and the Anti-Balaka in the period from 24 March to 31 August 2013.

[1089] P-2328: CAR-OTP-2099-0165, at 0179-0180, para. 75, draft translation: CAR-OTP-00000147, at 000015-0000016, para. 75.
[1090] P-2328: CAR-OTP-2099-0165, at 0180, paras 76, 78, draft translation: CAR-OTP-00000147, at 000016, paras 76, 78.
[1091] P-2328: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-047-CONF-ENG, p. 56.
[1092] P-2328: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-047-CONF-ENG, p. 56.
[1093] UNSG Report December 2013, CAR-OTP-2001-0329, at 0329-0330, paras 2-5; UNSG Report March 2014, CAR-OTP-2001-0409, at 0413, paras 23-24. *See also* UNHCHR Report February 2014, CAR-OTP-2001-0391, at 0395, paras 13-14.
[1094] UN Commission of Inquiry Final Report December 2014, CAR-OTP-2001-7017, at 7033, 7051-7052, paras 39, 95-97. *See also* UN Commission of Inquiry Preliminary Report June 2014, CAR-OTP-2001-1075, at 1087-1088, paras 42-44.

x. Hostilities between the alleged 'pro-Bozizé forces' and the Seleka

498. The Chamber notes that the Prosecution's allegations on the alleged hostilities concern the following: (i) armed resistance by 'Bozizé and his allies' against the Seleka along the border region with Cameroon; (ii) the 'killing of Seleka elements in Boy Rabe' on 11 April 2013 by 'pro-Bozizé supporters'; (iii) the launching of 'mortar attacks' by 'the pro-Bozizé' at the National Assembly to disrupt Michel Djotodia's swearing-in ceremony in August 2013; (iv) clashes between the Anti-Balaka and the Seleka in a number of towns in CAR from August 2013 onwards; and (v) attacks by the Anti-Balaka on Bangui and Bossangoa on 5 December 2013.[1095]

499. The Defence points to the absence of an armed conflict in the period between 24 March 2013 and the end of August 2013 apart from an isolated, 'failed attack' on 18 August 2013, followed by a few skirmishes in the provinces from September 2013 onwards.[1096]

xi. Hostilities between 24 March and 31 August 2013

500. The Chamber received evidence of three events that took place between 24 March and 31 August 2013, which, according to the Prosecution, demonstrate clashes between the Seleka and the 'pro-Bozizé' forces.

501. First, P-2232 testified regarding an 'attack organised by Steve Yambete' in Garam-Boulaï, a border town between Cameroon and CAR,[1097] at some point before Michel Djotodia's inauguration on 18 August 2013.[1098] P-2232 stated that 'Colonel Mboya, Mokom senior, Ngaïssona', and Levy Yakete 'organised themselves so that they could go back home to the country' and that the objective was to take Garam-Boulaï and Bouar,[1099] and then force Michel Djotodia to enter into dialogue, but it did not work.[1100]

[1095] Prosecution Closing Brief, ICC-01/14-01/21-1027-Red, paras 8, 45-49.
[1096] Defence Closing Brief, ICC-01/14-01/21-1039-Red, paras 243-264.
[1097] P-0884: CAR-OTP-2072-1715, at 1727-1730; P-0291: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-051-CONF-ENG, pp. 42-43.
[1098] P-2232: T-102, pp. 15, 20-21, 23-24.
[1099] Map, CAR-OTP-2070-0268. Nicolas Tiangaye noted the strategic importance of Bouar; he noted that there was a French military base there; since CAR is a landlocked country, merchandise coming through the Douala port in Cameroon is taken to CAR through Garam-Boulaï and Bouar; both Chad and Cameroon can be reached from Bouar: P-0291: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-051-CONF-ENG, pp. 42-43. The Chamber also notes [REDACTED]'s evidence that there was a lot of tension in Bouar but no clashes between the FACA and the Seleka; he recalled that when the Seleka entered Bouar, the FACA kept their weapons in store; when the Seleka started committing atrocities in Bouar, he and his fellow FACA left for Bangui, three months after the Seleka entered Bangui: [REDACTED].
[1100] P-2232: T-102, pp. 20-21.

P-2232 recalled that during the 'attack organised by Steve Yambete' in Garam-Boulai, they pillaged the Ecobank.[1101] There is no indication in the evidence to determine whether these events resulted in a armed confrontation with the Seleka, the scale thereof, or whether there were any casualties.

502. Second, the Chamber received evidence of: (i) the killing of two Seleka patrolling in Boy Rabe on 11 April 2013, with indirect evidence linking these killings to the former members of the Presidential Guard and supporters of François Bozizé.[1102]

503. Third, there is evidence that shells were fired by former members of the Central African armed forces[1103] aimed at Michel Djotodia's convoy and the Seleka stationed at the National Assembly in August 2013 to disrupt Michel Djotodia's swearing-in ceremony on 18 August 2013.[1104]

504. The Chamber received insufficient evidence to determine whether the aforementioned events, individually or taken together, could amount to armed confrontations between the Seleka and the groups that would become known as the Anti-Balaka. The Chamber also received insufficient evidence to assess whether these events were more than just 'situations of internal disturbances and tensions'.

505. The Chamber also received into evidence a number of reports indicating that there were clashes in late July and August 2013 in the sub-prefecture of Bossangoa and in Bohong,

[1101] P-2232: T-102, pp. 15, 21.
[1102] P-2563 testified that the people in Boy-Rabe issued an ultimatum to the Seleka when they took control of Bangui saying that the Seleka were not allowed to patrol in Boy-Rabe and, one day, someone threw a grenade at the vehicle that claimed the lives of two Seleka members: P-2563: T-114, p. 21. P-2386 stated that he had heard that former members of Bozizé's Presidential Guard 'had killed two patrolling Seleka elements in Boy Rabe' and that he had heard from the local population that these killings were in retaliation for the Seleka killing a famous former Presidential Guard lieutenant, who had been close to François Bozizé: P-2386: CAR-OTP-2135-2792, at 2798, para. 34
[1103] [REDACTED]. *See also* report, CAR-OTP-2075-0949 dated 19 August 2013 containing a special bulletin about this incident and mentioning that Hervé Nganazoui was a former Presidential Guard under Bozizé.
[1104] P-2232: T-102, p. 21, 28-29; P-2232: T-103, pp. 21-23; P-2232: T-104, pp. 17-21; P-2232: CAR-OTP-2107-6147, at 6155, para. 48; P-0100: CAR-OTP-2027-2535, at 2540-2542, paras 31-32, 35, 39. The Chamber notes that both P-0100 and P-2232 appeared to be confused about the exact timing of the event, estimating it to have taken place in April 2013; however, both were certain that these events related to Michel Djotodia's swearing-in ceremony and the subsequent events in Boy Rabe, which the Chamber notes took place on Sunday, 18 August 2013. This conclusion is supported by how these witnesses describe the event, namely, having taken place in the early hours of the day, [REDACTED], and relating to disrupting Michel Djotodia's inauguration where foreign dignitaries were present. *See also* P-2087: CAR-OTP-2074-2965, at 2971, paras 34-38; P-1277: CAR-OTP-2051-0966, at 0971, para. 21; P-2563: T-114, pp. 24-25. For the presence of foreign dignitaries, the Chamber received in evidence photographs of this ceremony [REDACTED]: CAR-OTP-2069-2823, CAR-OTP-2069-2835, CAR-OTP-2069-2847, CAR-OTP-2069-2852, CAR-OTP-2069-2857, CAR-OTP-2069-2867, CAR-OTP-2069-2903 with the following photograph showing a foreign dignitary, CAR-OTP-2069-2900; [REDACTED].

Ouham-Pendé prefecture.[1105] However, this information is not supported by the witnesses who were present in these locations and testified about clashes beginning in September 2013 (as set out below). The Chamber also notes that a statement by the National Transitional Government on the recent events of Ouham and Ouham Pendé on 11 September 2013 referred to violent armed clashes between ex-Seleka elements and gangs presented sometimes as archers, sometimes as anti-balaka organized in self-defence groups, and sometimes as supporters of former President François Bozizé.[1106] Accordingly, the Chamber is not satisfied that these aforementioned reports provide reliable evidence to show that there were clashes between the Anti-Balaka and the Seleka in the prefectures of Ouham and Ouham Pendé *prior* to September 2013.

xii. Hostilities from September 2013

506. The evidence before the Chamber refers to frequent clashes between the Seleka and the Anti-Balaka who had gathered in Gobere from September 2013 onwards.

507. As regards Gobere, P-2251 testified that the Anti-Balaka chiefs communicated to them that they would 'first attack Bossangoa' and then Bouca and Bogangolo.[1107] P-2251 testified that they also wanted to drive them (the Seleka) out of Bossemptele and other towns.[1108]

508. P-0966's evidence shows that these attacks were carried out as military operations, in that they included reconnaissance missions, instructions to cover the exits, strategy implemented upon instructions from commanders, and taking control of the village for

[1105] Letter, CAR-OTP-2101-3917, at 3918-3920. According to an Information Bulletin transmitted by the Red Cross to the Minister of Social Affairs, National Solidarity and Gender Issues dated 7 August 2013, stamped as received on 9 August 2013, clashes occurred between the Seleka and the 'self-defence committee' in the sub-prefecture of Bossangoa from 22 July to 2 August 2013'. It reported that the affected populations were in six villages: Ouham Bac, Bessa axis Bozoum 30 KM, Bodalo 1, Badalo 2, Boassi, and Bowé, and that 345 families had been affected, with 1820 persons displaced. It indicated that seven persons were dead, and nine were injured. The Chamber also notes that the 'Report of the Mapping Project documenting serious violations of international human rights law and international humanitarian law committed within the territory of the Central African Republic between January 2003 and December 2015' reported that confrontations between Seleka and local anti-Balaka militia in Bohong, Ouham-Pendé prefecture in August and September 2013, resulted in over 50 people killed: Mapping Project Report, CAR-OTP-2055-1987, at 2241-2242.
[1106] Statement, CAR-OTP-2100-1790, at 1791.
[1107] P-2251: CAR-OTP-2093-0045, at 0052, paras 42-43. *See also* P-2251: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-043-CONF-ENG, p. 14.
[1108] P-2251: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-043-CONF-ENG, pp. 14-15.

as long as a week.[1109]

509. The Chamber received evidence from members of the Anti-Balaka groups from Gobere who participated in attacks on villages in and around the Bossangoa area, including Bouca, Lere, Gbadé, Dadoukota 1 and 2, and Zéré.[1110] There is also evidence of clashes between the Anti-Balaka and the Seleka in Benzambé,[1111] Ouham-Bac,[1112] Bossangoa (September 2013),[1113] Bouca,[1114] Bogangolo,[1115] and Ndjo (September 2013).[1116]

510. P-2232 gave evidence about clashes in Yaloké, following which, the Anti-Balaka went from village to village, all the way to Bangui.[1117] Nicolas Tiangaye visited Bossangoa around 17 October 2013 in response to the resulting humanitarian situation, and noted that the Anti-Balaka and Seleka were both already present in Bossangoa.[1118]

511. The Chamber received little information about the scale and intensity of these clashes. Two aspects of the evidentiary record in this case make the absence of this type of information particularly significant. First, the evidence shows that the initial targets of Anti-Balaka attacks were small-scale locations in the region around Bossangoa. In this

[1109] P-0966: CAR-OTP-2031-0241, at 0249, paras 45-48; P-0966: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-117-ENG, pp. 43-44.
[1110] P-0966: CAR-OTP-2031-0241, at 0248, para. 42, referring to annotated map, CAR-OTP-2031-0266. *See also* [REDACTED].
[1111] P-0966: CAR-OTP-2031-0241, at 0248, para. 42; P-0966: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-117-ENG, pp. 44-47; P-0966: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-116-ENG, pp. 36-38; P-2232: T-102, p. 54.
[1112] P-0966: CAR-OTP-2031-0241, at 0248, 0250, paras 41, 51; P-0966: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-116-CONF-ENG, p. 38.
[1113] P-0966: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-116-CONF-ENG, pp. 52-53; ICC-01/14-01/18-T-117-ENG, p. 55; P-2251: CAR-OTP-2093-0045, at 0053, paras 49-51; P-2251: P-0966: prior recorded testimony given in the *Yekatom and Ngaïssona* case, prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-043-CONF-ENG, pp. 22-25. [REDACTED]; photographs, CAR-OTP-2073-0085, CAR-OTP-2073-0086, CAR-OTP-2073-0087, CAR-OTP-2073-0088, CAR-OTP-2073-0089, CAR-OTP-2073-0090, CAR-OTP-2073-0091, CAR-OTP-2073-0092, CAR-OTP-2073-0093, CAR-OTP-2073-0094, CAR-OTP-2073-0095, CAR-OTP-2073-0096.
[1114] P-2251: CAR-OTP-2093-0045, at 0053-0054, paras 52-55; P-2251: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-043-CONF-ENG, pp. 21-22.
[1115] P-2269: CAR-OTP-2111-0336, at 0346, para. 74; P-2251: CAR-OTP-2093-0045, at 0055, paras 60-64.
[1116] P-2232: T-102, pp. 46-49. P-2232 gave evidence about an attack on the Seleka base in Ndjo, which he described as the first large-scale attack after Gobere. As regards the timeframe of this attack on Ndjo, the Chamber notes that, [REDACTED]: P-2232: T-102, pp. 22, 39-43, 48-49. [REDACTED]. *See also* photograph, CAR-OTP-2073-0107, with annotated version, CAR-REG-0002-0151 of Archbishop Nzapalainga and other religious leaders.
[1117] P-2232: T-102, pp. 49, 54. P-0884, asked about a report mentioning attacks in Bouar, Yaloke and Gaga in October 2013, Bossembele at the end of October 2013, Beloko in November 2013, and Boali on 2 December 2013, agreed that he was aware of those attacks from the news on the radio and print media and that '[a]ll Central Africans were aware': P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-055-CONF-ENG, pp. 40-41.
[1118] P-0291: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-051-CONF-ENG, pp. 43-45.

regard, the Chamber notes P-0966's testimony that the aim initially communicated was to confront 'all the Seleka bases around Bossangoa' and defeat smaller groups of Seleka, chase them from their posts, and seize their weapons to become strong enough to attack Bossangoa and ultimately Bangui.[1119]

512. Second, the Chamber notes evidence to the effect that the Anti-Balaka considered all Muslims to be Seleka and attacked Seleka combatants and Muslim civilians indiscriminately.[1120] P-0966 testified that in Bossangoa 'whoever was a Muslim was a Seleka' and that if someone stayed in their house, the Anti-Balaka assumed that they had a weapon to defend themselves.[1121] Accordingly, absent information about the scale of military engagement between the Anti-Balaka and the Seleka, the Chamber could not ascertain whether, and to which extent, these were attacks against the civilian population of these towns or entailed armed confrontations between the Seleka and the Anti-Balaka.

513. P-2232 also testified that the Seleka attacked villages and Anti-Balaka bases between March and December 2013, referencing attacks on Boy Rabe, Berberati, Bambari and Bria.[1122] However, when questioned as to who the Seleka were attacking, P-2232 testified that the Seleka were attacking 'the population' and that this 'is how the Anti-Balaka movement came into existence'.[1123] The Chamber was not satisfied on the basis of this evidence that P-2232's testimony relates to armed confrontation between the Seleka and the Anti-Balaka.[1124]

xiii. Attack on Bangui and Bossangoa on 5 December 2013

514. The Chamber received evidence of how Anti-Balaka groups began advancing towards Bangui through the bush,[1125] and reassembled behind the hills around Bangui, before

[1119] P-0966: CAR-OTP-2031-0241, at 0248, para. 44; P-0966: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-117-ENG, pp. 38, 43; P-0966: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-116-CONF-ENG, p. 52.
[1120] P-0966: CAR-OTP-2031-0241, at 0252, para. 64; P-2232: T-102, p. 52; P-1339: T-132, p. 28; P-1967: CAR-OTP-2069-0498, at 0501, para. 17; P-2328: CAR-OTP-2099-0165, at 0185, para. 101, draft translation: CAR-OTP-00000147, at 000021, para. 101; P-1339: T-132, p. 27; P-0291: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-051-CONF-ENG, pp. 61-62.
[1121] P-0966: CAR-OTP-2031-0241, at 0252, para. 64.
[1122] P-2232: T-102, pp. 30-31.
[1123] P-2232: T-102, p. 31.
[1124] *Contra* CLRV Closing Brief, ICC-01/14-01/21-1028-Red2, para. 81.
[1125] P-2251: CAR-OTP-2093-0045, at 0056-0057, paras 71-74; P-2251: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-043-CONF-ENG, p. 27; annotated map, CAR-OTP-2093-0083. P-2251's evidence shows that some members of the groups in Gobere who attacked the localities in and around Bossangoa to drive out the Seleka thought they were finished attacking and driving away the Seleka. He

5 December 2013.[1126] P-2251 and P-0966 recalled more people, including former FACA members, joining at this stage.[1127] The Chamber also received evidence from P-1339 that Alfred Yekatom's group moved from their location to a locality called Proget and unified with certain groups coming from Bossangoa, prior to December 2013.[1128]

515. Jean-Jacques Demafouth recalled attending a meeting of the CNS chaired by Michel Djotodia prior to 5 December 2013, where the presence of the Anti-Balaka around Bangui was discussed; they knew that something was being planned by the Anti-Balaka and this was the reason the Seleka initiated a search operation in the Boy-Rabe neighbourhood in November 2013;[1129] the Seleka were preparing themselves to face the attack.[1130]

516. Witnesses who participated in the attack on Bangui recalled that in the early morning of 5 December 2013, various Anti-Balaka groups taking different but pre-assigned routes,

testified that young civilians and FACA solders coming from Bangui told them that the situation there was very bad and that the Seleka were targeting FACA and killing them and that things would only get worse if they did not defend the people there and therefore, they agreed to help them drive the Seleka out of Bangui. P-0966 on the other hand seemed to already know of the plan to advance to Bangui when groups were allocated to take over localities in and around Bossangoa: P-0966: CAR-OTP-2031-0241, at 0249, para. 44; P-0966: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-117-ENG, p. 38; P-0966: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-116-CONF-ENG, p. 52. P-2269 stated that his group took the road from Bogangolo to Damara, before reaching Bangui, clashing with the Seleka in Damara, returning to the bush where the Seleka could not follow them: P-2269: CAR-OTP-2111-0336, at 0346-0347, paras 75, 81.

[1126] P-2251: CAR-OTP-2093-0045, at 0057-0059, paras 78, 81-88; annotated maps, CAR-OTP-2093-0083, CAR-OTP-2093-0084; P-2269: CAR-OTP-2111-0336, at 0347, para. 82; P-0405: CAR-OTP-2107-4555, at 4578, 4582. Jean-Jacques Demafouth stated that some of the Anti-Balaka came from Bogangolo, Bossangoa, Boda, Mbaiki and Bouci and they all initially gathered around Bangui, concentrated in Combattant, PK12, Boeing, Cattin and Ouango; he stated that the Anti-Balaka were encircling Bangui, PK12 (along the Boali road), PK11 (on the Banzubangui hill at a place called Kaga Mangou or Kara Mangou) the hills surrounding Bangui and Mbaïki, Bimbo, Cattin, Boeing, around the airport, in the 7th arrondissement (in particular, Gbangouma); he recalled receiving information to suggest that the Anti-Balaka were also visible in the 8th arrondissement, Boy Rabe, Combattant and Fouh: P-2328: CAR-OTP-2099-0165, at 0179-0180, paras 75-76, draft translation: CAR-OTP-00000147, at 000015-000016, paras 75-76; P-2328: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-047-CONF-ENG, pp. 55, 59. P-0884 testified that everyone in Bangui knew that the attack was going to happen as the Anti-Balaka 'had already infiltrated the outskirts of Bangui and some people sheltered them': P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-056-CONF-ENG, pp. 4-5.

[1127] P-2251: CAR-OTP-2093-0045, at 0058, paras 82-86. P-0966, who participated in the Bossangoa attack recalled similarly for Bossangoa in that many soldiers joined them before 5 December 2013: P-0966: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-116-CONF-ENG, p. 27.

[1128] P-1339: T-131, pp. 38-39, 43-44, 46-47, referring to sketch, CAR-OTP-2041-0777.

[1129] P-2328: CAR-OTP-2099-0165, at 0180, para. 79; draft translation, CAR-OTP-00000147, at 000016, para. 79.

[1130] P-2328: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-047-CONF-ENG, p. 56.

entered Bangui[1131] and targeted Camp Béal,[1132] Camp Kassai,[1133] 36 Villas,[1134] Camp Obrou,[1135] the National Assembly,[1136] Boeing Market,[1137] and PK10/PK12.[1138]

517. P-2251 testified that the former FACA members who participated in the attack were divided amongst the different groups and 'used the weapons that we had taken from the Seleka in Bossangoa and Bouca', and that most of his group had hunting rifles[1139] or machetes, while some had Kalashnikovs.[1140] P-2251 stated that there was about 100 people in each group.[1141]

518. P-0966, who participated in the Bossangoa attack, testified that the Anti-Balaka attacked Bossangoa in the afternoon on the same day as the attack on Bangui, as it was the same superiors from Gobere who coordinated both attacks and they wanted to show that the organisation had a national reach.[1142]

[1131] P-2269: CAR-OTP-2111-0336, at 0348, para. 86; P-2251: CAR-OTP-2093-0045, at 0077, para. 208; P-0435: CAR-OTP-2017-0036, at 0067, para. 184; P-0405: CAR-OTP-2107-4555, at 4590. P-1297, a [REDACTED], recalled the Anti-Balaka descending onto Boy Rabe from the hill on 5 December 2013 in the middle of the night, attacking Seleka positions at around 03h00 or 04h00; they heard them shouting that they were going to push the Seleka out of power and saw them at the main road of Ouham 1 in groups, wearing shorts, bandanas, *gris-gris* on their arms and chests and carrying wooden sticks and batons; to him, it seemed as if there were thousands of them as they were coming down in groups of around 50 to 100 men; some were local men who had joined the resistance but many came from the provinces; only the final groups of Anti-Balaka who descended had some hunting shotguns, but the rest had batons and machetes: P-1297: CAR-OTP-2039-0167, at 0176, paras 61-64.
[1132] P-2269: CAR-OTP-2111-0336, at 0348, para. 88.
[1133] P-2269: CAR-OTP-2111-0336, at 0348, para. 88; P-2251: CAR-OTP-2093-0045, at 0077, para. 208; P-2563: T-114, p. 15; P-2563: T-115, pp. 54-55. P-0881, a Bangui resident, recalled the Anti-Balaka attacking Bangui around 05h00 on 5 December 2013 and hearing detonations coming from around Camp Kassai which had been surrounded by the Anti-Balaka; he stated that the Anti-Balaka released all of the Seleka prisoners and criminals from Ngaragba prison and broke into Michel Djotodia's villa in Ngaragba that day: P-0881: CAR-OTP-2032-0682, at 0699, paras 122-124. *See also* P-0100: CAR-OTP-2027-2535, at 2558, para. 140; P-1424: CAR-OTP-2049-0198, at 0203, para. 32; P-1289: CAR-OTP-2053-0359, at 0377, para. 106.
[1134] P-2251: CAR-OTP-2093-0045, at 0059-0060, para. 93, 98; annotated map, CAR-OTP-2093-0084.
[1135] P-2251: CAR-OTP-2093-0045, at 0060, paras 95, 98.
[1136] P-2251: CAR-OTP-2093-0045, at 0059, para. 91; P-2269: CAR-OTP-2111-0336, at 0348, paras 88, 91-92. P-0100, a Bangui resident, recalled the Anti-Balaka arriving in Bangui on 5 December 2013 at around 04h00 from the provinces and launching an attack; he saw the Anti-Balaka come in columns behind [REDACTED] and go towards the National Assembly: P-0100: CAR-OTP-2027-2535, at 2558, para. 139.
[1137] P-1339 drew sketches describing the attack on the Boeing Market and the Boeing Mosque: P-1339: T-132, pp. 10-12, referring to sketch of the Boeing Market, CAR-OTP-2041-0767, pp. 17-18, referring to sketch of the Boeing Mosque, CAR-OTP-2041-0776. *See also* P-2269: CAR-OTP-2111-0336, at 0348, para. 88 ('Rombhot was to take the other side').
[1138] P-2251: CAR-OTP-2093-0045, 0059-0060, paras 91, 93-94; annotated map, CAR-OTP-2093-0084.
[1139] [REDACTED]: P-2251: CAR-OTP-2093-0045, at 0060, para. 97.
[1140] P-2251: CAR-OTP-2093-0045, at 0060, paras 95-97.
[1141] P-2251: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-043-CONF-ENG, p. 37.
[1142] P-0966: CAR-OTP-2031-0241, at 0251, para. 60; P-0966: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-116-CONF-ENG, pp. 42-43; P-0966: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-118-CONF-ENG, p. 7. P-0966 testified that when his group

519. There is evidence that the Seleka resisted the attack successfully in both locations, following which the Anti-Balaka retreated on the same day;[1143] this was followed by reprisals by the Seleka against the Anti-Balaka and the civilians in Bangui.[1144] When describing the attack, Nicolas Tiangaye testified that the Anti-Balaka had only rudimentary resources, hunting weapons, spears and machetes, whereas the Seleka had light and heavy weapons so the Seleka had the upper hand and they used it not only to repel the Anti-Balaka attack, but also 'attacked people who were not even involved'.[1145]

As regards casualties resulting from the attack in Bangui, the Chamber notes the evidence provided by [REDACTED], who went to Hôpital Communautaire in Bangui later that day, and stated that many killed and wounded were brought there.[1146] Witnesses also recalled several bodies found spread all over the road from the National Assembly to the Lycée Boganda and in Boy Rabe.[1147]

heard about the Bangui attack on the radio, they attacked Bossangoa on the same day to show that it was a coordinated attack; they 'wanted people to know that the Anti-Balaka attacked in the provinces too' and that attacking in a joint fashion would 'show that the movement had a national reach'; when they attacked Bossangoa, they started by attacking the Seleka's bases and after having attacked the bases, they took control of the neighbourhoods to take control of the city.

[1143] P-2269: CAR-OTP-2111-0336, at 0348, para. 90; P-2251: CAR-OTP-2093-0045, at 0060, paras 95, 98-100; P-2087: CAR-OTP-2074-2965, at 2981, para. 81. P-2251 gave evidence about his group and others retreating to the bush; he recalled being scared because the Seleka were too strong and had better weapons: P-2251: T-067, p. 18; P-2251: CAR-OTP-2093-0045, at 0060-0061, paras 100-105; P-2251: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-043-CONF-ENG, pp. 24, 39-40; P-2251: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-044-CONF-ENG, pp. 10-11. Jean-Jacques Demafouth testified that, in his opinion, the Anti-Balaka attack failed as it lacked ammunition, resources and support from the people; the Anti-Balaka lost a lot of people and the first victims among the ranks were the people who had come from the villages, were not very familiar with the city of Bangui and were not proper FACA soldiers: P-2328: CAR-OTP-2099-0165, at 0181, para. 84, draft translation: CAR-OTP-00000147, at 000017, para. 84. For retreat in Bossangoa: *see* P-0966: CAR-OTP-2031-0241, at 0251-0252, para. 61; P-0966: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-118-CONF-ENG, pp. 8-9, 62.

[1144] P-0291: CAR-OTP-2034-0104, at 0121, paras 111-112; P-0291: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-052-ENG, pp. 8-9; P-2328: CAR-OTP-2099-0165, at 0181, para. 83, draft translation: CAR-OTP-00000147, at 000017, para. 83; P-1297: CAR-OTP-2039-0167, at 0177, para. 69; P-2251: CAR-OTP-2093-0045, at 0061, para. 104. P-0358 testified that he was at home on 5 December 2013 when the Anti-Balaka attacked the Seleka in Bangui at around 05h00; the Anti-Balaka were unsuccessful against the 'better armed' Seleka, who P-0358 stated killed many of the Anti-Balaka young men or anyone they suspected of being part of the Anti-Balaka: P-0358: CAR-OTP-2043-0433, at 0450, para. 117.

[1145] P-0291: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-052-ENG, pp. 8-9. The Chamber understands the phrase 'people who were not even involved' to mean innocent civilians.

[1146] [REDACTED].

[1147] P-0100: CAR-OTP-2027-2535, at 2558, para. 140; P-1297: CAR-OTP-2039-0167, at 0176-0177, para. 66. *See also* P-0358: CAR-OTP-2043-0433, at 0450, para. 118 (stated being told by [REDACTED] one or two days after 5 December 2013 of 57 bodies having been dumped in the water canal close to a Seleka base); P-1424: CAR-OTP-2049-0198, at 0203, para. 32.

xiv. Aftermath of the attacks on Bangui and Bossangoa

520. P-0884 recalled the French forces (Operation Sangaris) being deployed in Bangui immediately after the attack on 5 December 2013.[1148] The Chamber received evidence of clashes between the Anti-Balaka and the Seleka continuing after 5 December 2013.[1149] Jean-Jacques Demafouth stated that, between 5 December 2013 and Michel Djotodia's resignation in 2014, there were incidents entailing loss of human life in Bangui on both the Anti-Balaka and Seleka sides.[1150] There is evidence that an Anti-Balaka spokesperson was appointed on 7 December 2013.[1151]

521. The Chamber received evidence that at an ECCAS summit in N'Djamena on 10 January 2014, the international community asked Michel Djotodia to resign, which he did.[1152] Nicolas Tiangaye, who was the Prime Minister at the time, recalled the tensions being very high after the December 2013 attack, attending the ECCAS summit on 10 January 2014 with Michel Djotodia and resigning on 14 January 2014 upon returning to Bangui.[1153] After Michel Djotodia and Nicolas Tiangaye resigned, Catherine Samba-Panza, the former mayor of Bangui, was elected as the President.[1154]

522. As regards the links between the Anti-Balaka and François Bozizé, there is limited evidence in this case about the activities of FROCCA after September 2013.[1155] Regarding François Bozizé's continued involvement with the Anti-Balaka, the Chamber

[1148] P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-056-CONF-ENG, p. 38. *See also* UNSG Report March 2014, CAR-OTP-2001-0409, at 0418-0419.
[1149] P-1339 testified about a clash between the Seleka and the Anti-Balaka on 7 December between Boeing and Kilometre 5: P-1339: T-132, p. 9. P-2269 recalled attacks on Berberati (10 December 2013), Boda and Mambere Carnot, Yaloke, Bossembele, Bossemptele: P-2269: CAR-OTP-2111-0336, at 0344, 0348, paras 59-61, 92.
[1150] P-2328: CAR-OTP-2099-0165, at 0185, para. 99, draft translation: CAR-OTP-00000147, at 000021, para. 99.
[1151] P-0884: T-077, p. 45; P-0884: CAR-OTP-2072-1440, at 1444-1446.
[1152] Nicolas Tiangaye, who attended this summit in his capacity as a Prime Minister, recalled also being asked to resign: P-0291: CAR-OTP-2034-0104, at 0122, para. 115. P-0338 recalled a sub-regional meeting at Ndjamena, where the decision was taken that Michel Djotodia should not return to Bangui, which led to the end of the Seleka regime in Bangui: P-0338: T-019, p. 85. Jean-Jacques Demafouth, who also attended the summit, stated that the Heads of State of ECCAS pressured Michel Djotodia to resign: P-2328: CAR-OTP-2099-0165, at 0185, para. 100, draft translation: CAR-OTP-00000147, at 000021, para. 100. *See also* P-1737: T-045, pp. 51-52.
[1153] P-0291: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-051-CONF-ENG, pp. 66-67.
[1154] P-0884: T-078, pp. 9-10; P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-056-CONF-ENG, p. 38; P-0119: T-084, p. 42; P-1967: T-094, p. 43.
[1155] P-0884 commented on minutes of an Anti-Balaka meeting held on 10 January 2014 that mention the following: '*Retour à l'Ordre constitutionnel ou bien Collège de Transition*'; he appeared to link the use of this language to the people leading FROCCA: P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-056-CONF-ENG, p. 34. The Chamber considers that P-0884's evidence is insufficient to attribute any actions to FROCCA after September 2013. *See also* report of P-2926 for the Prosecution, CAR-OTP-2127-4289, at 4307 to 4308, paras 41-44.

notes that Nicolas Tiangaye and Jean-Jacques Demafouth commented on an audio recording of a conversation between François Bozizé, Konaté and another unidentified individual.[1156] In this conversation dated sometime after the attack on 5 December 2013, François Bozizé, who was referred to as 'my General' and 'Authority' by the other participants, criticised the lack of control over unruly Anti-Balaka members.[1157]

523. There is no indication in the evidence in this case of François Bozizé's further involvement in the leadership of the Anti-Balaka in 2014. The evidence before the Chamber points to Patrice-Edouard Ngaïssona taking over as the general coordinator within the Anti-Balaka following Michel Djotodia's resignation.[1158] There is also evidence of infighting between Maxime Mokom and Patrice-Edouard Ngaïssona for control over the Anti-Balaka in 2014.[1159] There is no explanation in the Prosecution's briefs or in the evidence as to what role, if any, François Bozizé played in the alleged 'pro-Bozizé' forces after Michel Djotodia's resignation. The only reasonable conclusion from the evidence presented in this case is that François Bozizé held no leadership role in the Anti-Balaka at that time.

[1156] P-2328: CAR-OTP-2099-0165, at 0176, 0182, 0211, paras 60, 87, 250, draft translation: CAR-OTP-00000147, at 000012, 000018, 000047, paras 60, 87, 250, referring to audio, CAR-OTP-2000-0603, transcript, CAR-OTP-2060-0663. Jean-Jacques Demafouth stated that Konaté was one of the Anti-Balaka leaders and that he thought that he recognised Konaté's voice in this audio recording. Although there is no indication of the date of the conversation, the Chamber notes the reference to the activities of Sangaris, a force only deployed after the attack of 5 December 2013. Accordingly, the Chamber considers that the only reasonable conclusion is that this conversation took place after the Anti-Balaka attack on Bangui on 5 December 2013.

[1157] P-2328: CAR-OTP-2099-0165, at 0211, paras 248, 250-251, draft translation: CAR-OTP-00000147, at 000047, paras 248, 250-251, referring to audio, CAR-OTP-2000-0603, transcript, CAR-OTP-2060-0663. *See also* P-0291: T-062, pp. 62-63; P-0291: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-051-CONF-ENG, pp. 21-24, referring to audio, CAR-OTP-2000-0603, transcript, CAR-OTP-2060-0663.

[1158] P-0291: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-051-CONF-ENG, pp. 24-25; P-0291: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-053-ENG, pp. 16-17; P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-056-CONF-ENG, pp. 46-47; P-0884: CAR-OTP-2080-1565, at 1591; P-0966: CAR-OTP-2031-0241, at 0252, paras 66-67, 70; P-0966: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-116-CONF-ENG, pp. 60-61; P-2269: CAR-OTP-2111-0336, at 0350, para. 102. *See also* P-0529: CAR-OTP-2051-0159, at 0169, para. 63; P-2328: CAR-OTP-2099-0165, at 0192, para. 142, draft translation: CAR-OTP-00000147, at 000028, para. 142.

[1159] P-2328: CAR-OTP-2099-0165, at 0192-0193, paras 143-144, draft translation: CAR-OTP-00000147, at 000028-000029, paras 143-144; P-0966: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-118-CONF-ENG, p. 40.

5. Legal findings

a) Existence of a conflict prior to 24 March 2013

i. Parties to the conflict

a. The Seleka

524. Based on the factual findings set out above and as explained below, the Chamber is satisfied that the Seleka forces were organised within the meaning of article 8(2)(f) of the Statute between December 2012 and 24 March 2013.

525. In assessing whether the Seleka constituted an organised armed group within the meaning of article 8 of the Statute, the Chamber considered the circumstances that gave rise to the Seleka rebellion and how events unfolded up until the Seleka takeover of Bangui on 24 March 2013.[1160] In particular, the Chamber took into account its factual findings that the Seleka was constituted by several groups, including the UFDR led by Michel Djotodia and the CPJP (which split into two wings in 2012: the CPJP led by Abdoulaye Hissène and the Fundamental CPJP led by Nouradine Adam) and the CPSK led by Mohamed Moussa Dhaffane.[1161] In late 2012, these groups formed a coalition and adopted a single political identity under the name 'Seleka', united by a shared commitment to defending the interests of the northern regions of CAR and a shared goal in overthrowing François Bozizé as President of CAR.[1162] The Chamber also took into account its factual findings concerning the military preparations and political negotiations by the Seleka from December 2012 onwards, as well as the nature, extent and rapidity of their military advance to Bangui, and the coordination, combat readiness and political maneuvering this demonstrated.[1163]

526. On the basis of these findings, the Chamber is satisfied that, during the relevant period from at least late December 2012 to 24 March 2013, the various armed groups constituting the Seleka: (i) presented sufficient coordination to train, arm, organise and conduct an advance through the northern regions of CAR on Bangui, despite the number and diversity of their units and leaders; (ii) occupied vast swathes of territory in the north

[1160] *See* above paras 353, 356-374.
[1161] *See* above paras 356-357.
[1162] *See* above paras 359-360.
[1163] *See* above paras 362-367.

and centre of CAR within a month; (iii) leveraged political support and sufficient internal cohesion to collectively negotiate with the State representatives in a multinational diplomatic forum; (iv) acquired military arms, ammunition, and implements before and during their advance on Bangui; (v) carried out coordinated military operations against the forces supporting the State at the time, with the Seleka units mutually supporting and reinforcing each other's positions; and (vi) successfully took power in CAR, by force and through military strategy, following which François Bozizé, the sitting head of state, fled the country on 24 March 2013.

527. The Chamber notes the Defence's arguments that there was no coordination or planning between the Seleka groups and that the only political act taken by the coalition was participation in the Libreville Agreements, which took place in a fragmented way.[1164] The Defence argues that the groups met with no real resistance before reaching Bangui so there was no need for any particular organisation, and that there is nothing on record to suggest that any form of coordination, organisation or complex planning actually happened.[1165] The Defence submits that entities comprising the Seleka, the FDPC,[1166] the UFDR,[1167] the CPJP,[1168] and the CPSK,[1169] were beset by fluctuating allegiances, political opportunism, and internal power struggles between prominent members.[1170] According to the Defence, the coalition must be understood as a temporary political alliance between disparate […] defence groups with divergent interests characterised by in-fighting for power within the group, making any coordination impossible.[1171] The Defence also generally challenges the adequacy of the military weapons, military uniforms, and military hierarchy in the Seleka in the period before 24 March 2013.[1172]

528. Regarding the Seleka's level of organisation and coordination, the Chamber considers that a party to a conflict can comprise several armed groups or take the form of a coalition. The relevant legal question is therefore not whether the Seleka was a united and cohesive 'armed group', but rather whether, on the whole, the coalition possessed

[1164] Defence Closing Brief, ICC-01/14-01/21-1039-Red, paras 24, 28-46.
[1165] Defence Closing Brief, ICC-01/14-01/21-1039-Red, paras 35-48, 243.
[1166] Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 19.
[1167] Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 20.
[1168] Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 21.
[1169] Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 22.
[1170] Defence Closing Brief, ICC-01/14-01/21-1039-Red, paras 19-22.
[1171] Defence Closing Brief, ICC-01/14-01/21-1039-Red, paras 15, 22.
[1172] Defence Closing Brief, ICC-01/14-01/21-1039-Red, paras 43-46.

the requisite level of organisation. It is immaterial whether this is demonstrated through the coordination of different armed groups or the activities of a unified armed group. In the view of the Chamber, in this particular case, the requisite level of organisation can be inferred from the manner in which the operations on the ground unfolded,[1173] which must be assessed and understood in light of the conditions prevailing in CAR at the time. Therefore, the Chamber considers that it was unnecessary to establish every detail of how the military operations were planned and orchestrated at the leadership level.

529. The Chamber accepts that there is evidence that there were power struggles and shifting allegiances within and between the sub-groups forming the Seleka.[1174] However, in light of the manner in which the Seleka takeover of Bangui was orchestrated and its ability to engage in peace negotiations during this time,[1175] the Chamber rejects the Defence's suggestion that this made 'any coordination impossible' during the relevant timeframe. Similarly, the Chamber is not persuaded that the evidence, underlying the factual findings, supports the Defence's argument that the Seleka's objectives were purely opportunistic in nature.[1176] Rather, the Chamber considers that the extent of dissatisfaction regarding the perceived disenfranchisement of the northern part of CAR made the Seleka's goal of overthrowing the Bozizé Government and taking control of CAR a powerful unifying ideology at least in late 2012 and early 2013.[1177]

530. Having regard to the foregoing, the Chamber considers it indisputable that the Seleka possessed the requisite degree of organisation as an armed group from at least late December 2012. In particular, the Chamber recalls that the Seleka took over more than half of the country within the span of a month, the Seleka leadership demonstrated sufficient capacity to act on behalf of its members in political negotiations at Libreville under the auspices of ECCAS, and overthrew the Head of State using military force within three months, defeating the Central African armed forces supported by South African armed forces.

[1173] *See* above paras 363-366, 369-372.
[1174] *See* above paras 398-399.
[1175] *See* above paras 366-367.
[1176] Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 23.
[1177] *See* above paras 353, 359.

b. Party opposing the Seleka

531. Based on the factual findings set out above and as explained below, the Chamber is satisfied that the Seleka's advance was opposed by the Central African armed forces (the FACA and the Presidential Guard) supported by the South African armed forces.

532. As regards the Prosecution's allegations concerning the youth groups forming part of the 'pro-Bozizé forces', the Chamber recalls its factual findings concerning COCORA being active prior to the Seleka advance on Bangui and of François Bozizé attempting to mobilise the population against the Seleka through speeches.[1178] However, the Chamber recalls that no action was attributed to the youth associated with these groups in armed confrontations with the Seleka during the latter's advance to Bangui.[1179] The Chamber also recalls that inhabitants in at least one village defended themselves from a Seleka attack during their advance on Bangui.[1180] However, the Chamber could not conclude on the basis of the evidence that this was replicated in other areas or was linked to or representative of a coordinated response to the Seleka's advance by self-defence groups.

533. Having regard to the foregoing, the Chamber finds that the 'pro-Bozizé forces' described by the Prosecution between late December 2012 and 24 March 2013 were constituted by the FACA and the Presidential Guard, supported by the South African armed forces,[1181] and constituted 'governmental authorities' within the meaning of article 8(2)(f) of the Statute. The Chamber considers that these armed forces benefitted from a presumption of organisation as they represented 'governmental authorities' at the time.[1182]

ii. Protracted armed violence

534. Based on the factual findings set out above and as explained below, the Chamber is satisfied that, between late December 2012 and 24 March 2013, there was protracted armed violence between the Seleka and the Central African armed forces, supported by South African forces.

535. The Chamber accepts that the Seleka met with limited military resistance from opposing armed forces during their advance on Bangui and during the takeover of Bangui,

[1178] *See* above para. 365.
[1179] *See* above para. 365.
[1180] *See* above para. 364.
[1181] *See* above paras 364, 371-372.
[1182] Article 8(2)(f) of the Statute.

reflecting the State armed forces' limited presence in certain Central African provinces, particularly in the north, its lack of military preparedness and the desertion of its members when the Seleka entered Bangui.[1183] In particular, the Chamber recalls its factual findings about the clashes between the Seleka and the FACA in the provinces during the Seleka advance where, for the most part, the FACA withdrew and fighting was limited.[1184] It recalls that the Central African armed forces were ill-equipped to confront the Seleka forces, which numbered between approximately 7,000 and 8,000 fighters by March 2013.[1185] The events at this time were reported on by the UN Security Council and the ICRC, and the ICRC qualified the situation in December 2012 as a non-international armed conflict.[1186]

536. When the Seleka arrived in Bangui, some members of the Central African armed forces fled, some did not report to duty on that day, or went into hiding.[1187] There were no armed forces to confront the Seleka as they made their way into Bangui and the takeover of Bangui took place largely without armed clashes between the Seleka and the FACA.[1188]

537. Nonetheless, the Chamber recalls that the Seleka rapidly took over large parts of the territory of CAR and maintained this territory during the advance towards Bangui in December 2012.[1189] The Seleka and the FACA, supported by the South African forces, fought at PK55 and PK12 and the Seleka pushed the South African forces back, and advanced towards Bangui up to PK12.[1190] Based on the rapidity of the Seleka's advance to Bangui, the expanse of Central African territory taken over, and the level of active hostilities, the Chamber concludes that the intensity threshold for hostilities was met in the present case.

538. Accordingly, the Chamber is satisfied that the threshold required for the intensity of hostilities between the Seleka and the Central African armed forces, supported by South African forces, was met.

[1183] *See* above paras 363-365, 369-372.
[1184] *See* above para. 364.
[1185] *See* above para. 370.
[1186] *See* above para. 364.
[1187] *See* above para. 372.
[1188] *See* above para. 372.
[1189] *See* above paras 363-364, 369-372.
[1190] *See* above para. 371.

iii. Conclusion

539. Having regard to its conclusions set out above, the Chamber finds that there was an armed conflict not of an international character within the meaning of article 8(2)(f) of the Statute in CAR from at least late December 2012 until 24 March 2013 between the Seleka and the Central African armed forces supported by the South African armed forces.

b) Existence of a conflict after 24 March 2013

540. Having established that an armed conflict not of an international character existed in CAR from at least late December 2012 to 24 March 2013, the question in the present case is whether the armed conflict that began in 2012 continued throughout 2013, or whether it concluded with the ouster of François Bozizé on 24 March 2013.

541. Based on the factual findings set out above and for the reasons elaborated below, the majority of the Chamber, Judge Flores Liera dissenting, was unable to establish beyond reasonable doubt that the armed conflict between the Seleka and the Central African armed forces continued following the Seleka takeover of Bangui on 24 March 2013.

542. Given the circumstances and evidence in this case, the majority of the Chamber has cumulatively considered the following factors: (i) the continuity of the parties to the conflict and, in particular: (a) whether the 'pro-Bozizé' forces prior to 24 March 2013 (the Central African armed forces supported by the South African armed forces) were substantially the same as the 'pro-Bozizé' forces alleged by the Prosecution to have taken up arms against the Seleka later that year (the Anti-Balaka); and (b) whether the 'pro-Bozizé' forces supported François Bozizé's return as President of CAR and were politically motivated to continue to resist the Seleka's seizure of power; and (ii) the level of organisation of the 'pro-Bozizé' forces after 24 March 2013 and the extent to which they were capable of engaging in hostilities after 24 March 2013.

i. Continued existence of the parties to the conflict

a. The Seleka

543. Based on the evidentiary analysis and factual findings set out below in relation to the requirements of article 7 of the Statute,[1191] the Chamber is satisfied that the Seleka forces

[1191] *See* below para. 646.

continued to be organised within the meaning of article 8(2)(f) of the Statute between 24 March 2013 and at least 10 January 2014.

544. The Chamber recalls that Michel Djotodia remained one of the most senior leaders of the Seleka, and proclaimed himself President of CAR and Minister of Defence in the immediate aftermath of the coup d'état.[1192] The Chamber notes that Seleka leaders held official posts allowing them to dominate the government after 24 March 2013 and some Seleka members carried out the functions reserved for the defence and security forces.[1193]

545. The Chamber finds that the Seleka, as an armed group, continued to demonstrate the organisation necessary for the purposes of article 8 of the Statute. In this respect, the Chamber has considered that: (i) the Seleka continued to be led by the same leaders as before 24 March 2013 politically and militarily and preserved their organisation along ethnic lines;[1194] (ii) the Seleka leaders continued to exercise command over Seleka members in their respective groups, such that they could identify them, assign them duties, train them and control their movement in Bangui;[1195] (iii) the Seleka maintained control over strategic positions and State resources in Bangui;[1196] (iv) the Seleka leaders coordinated with each other in sustaining the continued armed presence of Seleka members in Bangui, including by feeding and financing them;[1197] and (v) the Seleka leaders and members carried out coordinated operations in Bangui that led to the commission of crimes.[1198]

546. Indeed, given the Chamber's conclusions on the Seleka organisational policy relevant to article 7 of the Statute, the Chamber is also satisfied that when they succeeded in ousting François Bozizé, the Seleka continued to coalesce around the aim of holding on to power in CAR for as long as possible.[1199]

547. Having regard to the foregoing, the Chamber is satisfied that the Seleka, as an armed group, continued to exist and did not change significantly in composition, cohesion, or

[1192] *See* below paras 646-648.
[1193] *See* below paras 636-637.
[1194] *See* below para. 637.
[1195] *See* below paras 639-642, 644-645.
[1196] *See* below paras 639, 647.
[1197] *See* below paras 639, 644, 647.
[1198] *See* below paras 625, 627-630.
[1199] *See* below para. 854.

level of organisation after 24 March 2013.

b. The 'Pro-Bozizé' Forces

548. Based on the factual findings set out above and as explained below, the majority of the Chamber, Judge Flores Liera dissenting, could not conclude that the 'pro-Bozizé forces represented a continuous party to the same conflict. Specifically, the majority finds that the Central African armed forces (supported by the South African forces) before the Seleka takeover on 24 March 2013 were different from the group of individuals that joined together to form the Anti-Balaka later in 2013 in the following ways: (i) the FACA was the CAR State armed forces whereas the Anti-Balaka was a non-State armed group; (ii) the military leadership, structure and professional soldier composition of the FACA was different to the collection of former soldiers and civilians that made up the Anti-Balaka; and (iii) the motivation that drove these groups to conflict was different, with the FACA being duty-bound to defend the State institutions in the face of a Seleka rebellion, and the Anti-Balaka being organised at a later date to retaliate against Seleka exactions against the civilian population.

549. The starting point for the majority of the Chamber is a consideration of the status of the Central African armed forces who opposed the Seleka prior to the coup d'état on 24 March 2013, whether they were 'pro-Bozizé', and the relationship of the armed forces to the Seleka and the so-called 'pro-Bozizé' forces after the coup d'état.

550. The majority of the Chamber considers that the FACA, as the armed forces of CAR, were formally obliged to defend the State and its institutions from the Seleka rebellion prior to 24 March 2013. While an undetermined number of former FACA members continued to support François Bozizé in his personal capacity following the Seleka takeover of Bangui, the Chamber has established that many members of the FACA resumed their duties under the *de facto* government established by Michel Djotodia.[1200] It therefore cannot be said on the basis of the evidence that the FACA as an entity was 'pro-Bozizé'.

551. The majority of the Chamber is of the view that François Bozizé's ouster on 24 March 2013 represented a complete defeat of the FACA by the Seleka. In this regard, the majority recalls its findings that before the Seleka arrived in Bangui, François Bozizé

[1200] *See* above paras 373, 376-378.

gathered his entourage and told them to save themselves before himself fleeing to Cameroon.[1201] When the Seleka took over Bangui on 24 March 2013, many members of the FACA and Presidential Guard abandoned their posts and went into hiding in Bangui, or sought refuge in the DRC, Cameroon and the Republic of the Congo.[1202] As they fled, soldiers took what weapons they could carry and hid or abandoned weapons that they could not take with them.[1203]

552. The majority of the Chamber notes that, following the events of 24 March 2013, the Central African State armed forces continued to exist notwithstanding that its numbers were reduced by large-scale desertion and their operations were strained in 2013 due to the Seleka's presence and activities.[1204] The FACA at this time was under the control of the *de facto* government established by Michel Djotodia.[1205] After an initial period of uncertainty, on 28 March 2013, certain generals of the army, senior officers of the police and gendarmerie pledged allegiance to Michel Djotodia.[1206] Many members of the State armed forces reported back to duty and were formally brought under Michel Djotodia's command over the following days, weeks and months.[1207] Notwithstanding the difficult and tense working relationship the FACA had with the Seleka,[1208] the majority of the Chamber attaches importance to the fact that the State armed forces that opposed the Seleka prior to the coup d'état were reconstituted at least in part under the governments established by Michel Djotodia after 24 March 2013.

553. The majority of the Chamber also considered the activities of those members of the defence and security forces who fled and participated in the establishment of the groups that ultimately became the Anti-Balaka.

554. In particular, the majority of the Chamber recalls its findings concerning the role played by former members of the State armed forces in the gatherings in Gobere and Kalangoi, including Dedane,[1209] and Alfred Yekatom.[1210] The Chamber further recalls that Maxime

[1201] *See* above para. 373.
[1202] *See* above paras 373, 376.
[1203] *See* above para. 376.
[1204] *See* above para. 377. *See also* below paras 648-649.
[1205] *See* above para. 377.
[1206] *See* above para. 377.
[1207] *See* above para. 377.
[1208] *See* above para. 377.
[1209] *See* above para. 381.
[1210] *See* above para. 382.

Mokom was formerly a police official under the Bozizé Government.[1211] The majority notes that the individuals identified as responsible for creating the Anti-Balaka and commanding the group were of a mixed civilian and military background, and that those leaders who had formerly been members of the FACA held mid- to low-level or unknown ranks prior to March 2013.[1212] The majority also takes into account that Patrice-Edouard Ngaïssona, who became the general coordinator of the Anti-Balaka in 2014, was formerly a businessman and Minister of Youth, Sport, Arts and Culture under the Bozizé Government.[1213] Therefore, while the majority of the Chamber recognises that the Anti-Balaka began to form from about June 2013, on the basis of the evidence presented in this case, it cannot determine the extent to which this group corresponded to the armed forces that opposed the Seleka prior to 24 March 2013. The Prosecution did not explain, or present evidence concerning how the 'pro-Bozizé forces' were organised prior to François Bozizé's ousting on 24 March. As a result, the majority of the Chamber could not determine how the armed forces of CAR were organised or how and by whom control of these forces was exercised up to that point. Equally little information was presented as to how much of the leadership of the Bozizé Government became the leadership of the 'pro-Bozizé forces' (other than the fact that Patrice-Edouard Ngaïssona had been a Minister for a short period of time under Bozizé's last government in a role that was not obviously related to the defence or security apparatus of CAR). Nonetheless, given the information available regarding the leadership of the Anti-Balaka (and in particular the fact that it was composed of persons from civilian backgrounds as well as military backgrounds and persons who had held mid- to low-level or unknown ranks in the defence and security forces previously), it is apparent that the leadership of the Anti-Balaka could not have corresponded to the hierarchy that would have previously existed within the FACA.

555. Regarding the grass-roots composition of the groups that became known as the Anti-Balaka, the majority of the Chamber recalls that a large majority of the individuals gathering in Gobere were persons from a non-military background.[1214] The majority also recalls that Alfred Yekatom's group was initially composed of five former members of

[1211] *See* above para. 381.
[1212] *See* above paras 381-382.
[1213] *See* above para. 378.
[1214] *See* above para. 379.

the Central African armed forces and a number of persons from a civilian background.[1215] While the numbers of these groups increased during the months that followed, the persons joining were also a mix of former military and non-military persons who were fleeing Seleka exactions.[1216]

556. Accordingly, although the majority of the Chamber accepts that members of the FACA deserted and joined groups that would become the Anti-Balaka, it could not ascertain on the basis of the evidence presented that the number of these former FACA members was significant in proportion to the overall numbers of these groups.

557. The majority of the Chamber is also not convinced that the groups that became the Anti-Balaka or the Anti-Balaka as it existed in January 2014 could be described as 'pro-Bozizé'. A number of individuals purportedly linked to François Bozizé, namely Patrice-Edouard Ngaïssona, Bernard Mokom and Maxime Mokom, provided financial and organisational assistance to the Anti-Balaka movement and Maxime Mokom played a role in coordinating operations.[1217] However, based on the evidence, the majority could not conclude that these individuals were necessarily motivated by the desire to reinstate François Bozizé as President or were acting under his instructions.[1218] At the grass-roots level, many of the persons and leaders gathering in Gobere and Kalangoi were not motivated by a desire to continue a conflict aimed at preventing the Seleka from seizing power, but rather by a need to respond to and defend their communities from Seleka attacks against civilians that arose subsequently.[1219] The gradual increase in the number of people joining the Anti-Balaka over the months after the Seleka takeover of Bangui also demonstrates that the Anti-Balaka was driven by a reaction to Seleka exactions in the months after the coup d'état rather than an immediate political will to reinstate François Bozizé or continue to resist the Seleka's initial seizure of power in March 2013.

558. The majority of the Chamber also observes that the evidence regarding the importance of François Bozizé within the coordination of the Anti-Balaka becomes less clear as the situation evolved. The majority could not establish on the basis of the evidence presented whether there was any relationship between FROCCA and the Anti-Balaka. There was

[1215] *See* above para. 382.
[1216] *See* above paras 380, 382-383.
[1217] *See* above paras 378, 384-385, 451.
[1218] *See* above para. 378.
[1219] *See* above paras 379-383.

also insufficient evidence to show François Bozizé's further involvement in the leadership of the Anti-Balaka in 2014.[1220] On the other hand, the evidence establishes that Patrice-Edouard Ngaïssona returned to Bangui following Michel Djotodia's resignation and became the general coordinator of the Anti-Balaka.[1221] Therefore, the majority of the Chamber is not satisfied on the basis of the evidence presented by the Prosecution in this case that the Anti-Balaka as an entity could be described as 'pro-Bozizé'.

559. Having regard to the above, the majority of the Chamber cannot establish that the State armed forces in CAR before the Seleka takeover in March 2013 and the collection of individuals that joined together to form the Anti-Balaka later that year aligned in terms of their leadership, composition or purpose, notwithstanding that they were both opposed to the Seleka. Further, the majority of the Chamber cannot be satisfied on the basis of the evidence that either entity could be described as 'pro-Bozizé'.

ii. Level of organisation of the Anti-Balaka

560. The majority of the Chamber recalls its findings that at least as of August 2013, the groups gathered at Gobere and to the south-west of Bangui exhibited limited military operational capacity, no ability to carry out large-scale operations, and no control over territory apart from maintaining a presence in a limited region in the bush in these areas.[1222] During its early formation, the members of the Anti-Balaka were armed with hunting rifles, wooden sticks, makeshift weapons, while some former members of the State armed forces used their personal or service weapons.[1223] Although former FACA members hid weapons prior to leaving Bangui, the majority of the Chamber could not conclude that these weapons were eventually retrieved by the Anti-Balaka on a large-scale.[1224]

561. The majority of the Chamber also recalls the circumstances in which the Anti-Balaka were organising, in particular, that the gathering at Gobere was organised by word of mouth, with limited availability and supply of weapons and finances.[1225] The majority of

[1220] *See* above para. 393.
[1221] *See* above para. 393.
[1222] *See* above para. 385.
[1223] *See* above para. 384.
[1224] *See* above para. 384.
[1225] *See* above para. 379.

the Chamber recalls that the Anti-Balaka was organised into groups with group-chiefs, who communicated with each other to discuss strategy.[1226] Members were registered and lists of members were constantly updated and sent to Maxime Mokom.[1227] Some military training was provided with the limited weapons available and the group received financial support from its own membership as well as through financial transfers from Cameroon and Patrice-Edouard Ngaïssona.[1228] At some point prior to the attack on Bangui, the Anti-Balaka in Gobere received at least one supply of weapons and Yekatom's group also obtained weapons.[1229] The majority of the Chamber is satisfied that it was only from September 2013 onwards that these Anti-Balaka groups developed limited military capacity sufficient to mount several attacks.[1230] While the military capacity of the Anti-Balaka increased from September 2013 onwards, there is no indication that the basic structure of the Anti-Balaka changed in 2013.[1231]

562. Considering these findings and based on the very limited information received about their respective structures, operations and financing, the majority of the Chamber finds that, while the groups that would become the Anti-Balaka had intent to engage militarily with the Seleka from at least June 2013, they had a basic command structure and only developed military capacity to launch initial operations in the Bossangoa region in September 2013, with a capacity to launch larger-scale attacks emerging only in December 2013.

iii. Protracted armed violence

563. Based on the factual findings set out above and as explained below, the majority of the Chamber, Judge Flores Liera dissenting, could not determine that the scale of the armed violence between the Seleka and the Anti-Balaka in the period between 24 March 2013 and 5 December 2013 supported a determination that the armed conflict continued after 24 March 2013.

564. The majority of the Chamber recalls its factual findings on the hostilities between the alleged 'pro-Bozizé forces' and the Seleka,[1232] as well as the security situation in CAR

[1226] *See* above para. 381.
[1227] *See* above para. 381.
[1228] *See* above para. 384.
[1229] *See* above para. 384.
[1230] *See* above paras 380, 382, 385.
[1231] *See* above para. 385.
[1232] *See* above paras 389-391.

generally.[1233] In particular, it recalls that it could not ascertain on the basis of the evidence that there was any armed confrontation between the Seleka and the groups that would become known as the Anti-Balaka between 24 March 2013 and 31 August 2013.[1234] The majority of the Chamber recalls that, while the Seleka continued to remain an organised armed group,[1235] it could not determine that the Seleka were on a conflict footing and were preparing to engage or counter the groups that would later become known as the Anti-Balaka.[1236] The Chamber also could not determine that the Seleka were aware of the extent to which the Anti-Balaka were gathering, recruiting and preparing with a view to engaging militarily against the Seleka until the operations of the Anti-Balaka became apparent.[1237]

565. The majority of the Chamber considers that this period of absence of any armed confrontations between the Seleka and the Anti-Balaka corresponded to the limited military capacity of the Anti-Balaka at the time and the fact that their numbers increased gradually in the months after 24 March 2013 as Seleka exactions against the civilian population increased and more people fled.

566. The majority of the Chamber also recalls its findings that clashes between the Seleka and the Anti-Balaka began in September 2013, but that the information before the Chamber was insufficient to ascertain the scale of any clashes between the Seleka and the Anti-Balaka and whether civilians rather than Seleka members were targeted in these localities.[1238] The majority of the Chamber is satisfied that large-scale and sustained clashes took place between the Seleka and the Anti-Balaka on and after the attacks on Bangui and Bossangoa on 5 December 2013.[1239]

567. The majority of the Chamber also notes that the situation in CAR continued to attract the attention of the international community throughout 2013 and the UN Secretary General noted a serious deterioration in the situation between August and December 2013 and a further deterioration in the security situation in CAR in 2014.[1240] There was no indication

[1233] *See* above paras 386-388.
[1234] *See* above para. 389.
[1235] *See* above paras 386, 544-548.
[1236] *See* above para. 387.
[1237] *See* above para. 387.
[1238] *See* above para. 390.
[1239] *See* above para. 391.
[1240] *See* above para. 388.

that the UN considered that an armed conflict not of an international character was ongoing between the Seleka and the Anti-Balaka in the period from 24 March to December 2013.

iv. Conclusion

568. Based on its conclusions above, the majority of the Chamber finds that François Bozizé's ouster on 24 March 2013 represented a complete defeat of the Central African armed forces by the Seleka and brought to an end the armed conflict that began between these opposing parties in 2012.

569. The majority of the Chamber finds that the armed conflict that ended on 24 March 2013 was immediately followed by the Seleka taking over the State institutions and carrying out exactions against the civilian population. In the view of the majority, this resulted in the emergence of a new group, the Anti-Balaka, which differed from the previous party opposing the Seleka in terms of their status, leadership, composition and purpose. The majority also recalls that, while the groups that formed the Anti-Balaka had intent to engage militarily with the Seleka from at least June 2013, they only developed military capacity to launch small-scale attacks in the Bossangoa region in September 2013, with a capacity to launch larger-scale attacks emerging only in December 2013.

570. The majority of the Chamber finds that the period of absence of any armed confrontations between the Seleka and the so-called 'pro-Bozizé forces' (from 24 March 2013 and 31 August 2013) was an additional indicator that the original armed conflict had ceased on 24 March 2013. It also recalls that it was unable to determine the scale of the armed violence between the Seleka and the Anti-Balaka in the period that followed between September and 5 December 2013. In this regard, the majority notes that there is no indication that the situation between March 2013 and December 2013 was viewed as an ongoing armed conflict by the UN or the international community generally.[1241]

571. The majority of the Chamber reiterates its view that armed conflicts may evolve and continue despite lulls in hostilities, fragmentation of parties, changes of leadership and/or composition and ideology, or temporary drops in level of organisation and military capacity. However, in the present case, all the factors were present cumulatively and to

[1241] *See* above para. 497.

a significant degree (namely, (i) the lack of continuity in the parties due to the Anti-Balaka organizing months after the defeat of the FACA, and the significant differences in the leadership, structure and composition of these two bodies; (ii) the lack of military preparedness, resources and logistical capability on the part of the Anti-Balaka; and (iii) the long duration of the period without armed confrontations between the Seleka and the so-called 'pro-Bozizé forces' between March and August 2013, the uncertainty regarding the scale of the armed clashes between the Seleka and the Anti-Balaka between September and December 2013, and the lack of any indication that the Anti-Balaka controlled any territory in CAR during the relevant time).

c) Overall conclusion

572. Accordingly, in view of the circumstances considered as a whole, the majority of the Chamber, Judge Flores Liera dissenting, is not satisfied beyond reasonable doubt that the armed conflict between the original parties to the conflict continued following the Seleka takeover of Bangui on 24 March 2013.

573. The majority emphasises that the period following 24 March 2013 was anything but peaceful for the civilians in CAR. During this period, tensions continued to remain high. The Seleka were targeting civilians, including former members of the State armed forces.[1242] Certain actors were preparing to retaliate militarily against the Seleka. However, in the view of the majority of the Chamber, this was the precursor to a new armed conflict, involving a different party in opposition to the Seleka. The majority of the Chamber emphasises that its finding that there was no armed conflict at the material time does not deprive civilians in CAR of legal protection. The majority notes in this regard that the rights to life, liberty and security of person are generally afforded broader protection under the human rights legal framework which continued to apply throughout the relevant period than under international humanitarian law.

574. Judge Flores Liera appends her opinion setting out her reasons for dissenting from the foregoing conclusions of the majority in Annex A. Otherwise, Judge Flores Liera agrees with the conclusions of the majority of the Chamber as set out below regarding the nexus requirement and Mr Said's knowledge. For these reasons, the Chamber has not considered the allegations for the war crimes of torture (count 3), cruel treatment

[1242] *See* below paras 632-633.

(count 4) and outrages upon personal dignity (count 5), as applicable, concerning the charged incidents.

6. Nexus requirement and Mr Said's knowledge

a) Factual findings and evidentiary analysis

i. Introduction

575. Being unable to conclude on the basis of the facts and evidence analysed in the previous section that the armed conflict between the original parties to the conflict continued following the Seleka takeover of Bangui on 24 March 2013, the majority of the Chamber considers it unnecessary to address whether Mr Said was aware of factual circumstances that established the existence of an armed conflict. Nevertheless, for the completeness of its analysis concerning the contextual elements of war crimes, the Chamber will consider below the evidence put forward by the Prosecution as to Mr Said's awareness regarding relevant events.

576. The Prosecution, pointing to Mr Said's role in the Seleka and at the OCRB, argues that neither he nor 'any other relevant physical perpetrator could have failed to know of the factual circumstances' establishing the existence of an armed conflict.[1243] However, the Prosecution does not explain or point to any information that would have been available to Mr Said in his role at the OCRB to show that a 'pro-Bozizé force' continued to exist, or at least was organising and/or preparing a military response in CAR as distinct from creating an ongoing security threat in the aftermath of the conflict that had existed up until 24 March 2013.

577. The Chamber notes that the Prosecution's allegations regarding Mr Said's awareness of the existence of a conflict are based on evidence regarding media reporting of the activities of individuals allegedly linked to François Bozizé, the Anti-Balaka and exchanges of fire.[1244] As regards Mr Said's knowledge particularly, the Defence argues that since the existence of the armed conflict was not known to anyone at the time, Mr Said could not have been aware of the factual circumstances surrounding it.[1245] It also argues that there can be no vague presumptions surrounding that knowledge and that the

[1243] Prosecution Trial Brief, ICC-01/14-01/21-359-Red, para. 51; Prosecution Closing Brief, ICC-01/14-01/21-1027-Red, para. 52.
[1244] Prosecution Trial Brief, ICC-01/14-01/21-359-Red, para. 51.
[1245] Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 284.

Prosecution has not adduced any contemporaneous evidence which could prove that Mr Said knew or could reasonably have known of the existence of an armed conflict.[1246]

578. Noting that the charges against Mr Said are limited to crimes allegedly committed between 12 April and 30 August 2013,[1247] the Chamber has only considered the information that would have been available to him prior to August 2013 in determining whether he had the requisite awareness at the relevant time.[1248] In this regard, the Chamber notes that while the Anti-Balaka attacks from September 2013 were covered by the media, this reporting falls outside the relevant time frame.[1249]

ii. Factual findings

579. Between April and the end of August 2013, the Chamber was unable to establish on the basis of the evidence that there was any reference in media reports to facts that could show: (i) the existence of an armed entity organising against the Seleka; (ii) armed action between the Seleka and any other armed entity, as such; and (iii) up until 30 August 2013, the existence of the Anti-Balaka. There were media reports on the organisation of protests, popular movements, public disorder and security threats against the Seleka.[1250]

580. In August 2013, François Bozizé publicly expressed his intention to complete his mandate.[1251] In a press releases in August 2013 from FROCCA, there is reference to 'expelling' the Seleka by 'legal means' and a 'legitimate struggle for national liberation'.[1252] The Chamber was not satisfied that François Bozizé's publicly stated intention to return or the FROCCA press release referred to, or necessarily implied, an armed action against the Seleka.

[1246] Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 287.
[1247] Confirmation of Charges Decision, ICC-01/14-01/21-218-Red, pp. 52-53.
[1248] For example, it has not referred in its analysis to the following documents: an unsigned and unstamped report dated 7 September 2013, CAR-OTP-2075-0978; a stamped handwritten report dated 8 September 2013, CAR-OTP-2034-3552; an unsigned, unstamped report dated 19 September 2013, CAR-OTP-2075-0985; agenda, CAR-OTP-2075-0999 (meeting dated 18 September 2013), an unsigned, handwritten report dated 19 September 2013, CAR-OTP-2075-1001; report, CAR-OTP-2079-1004. *See also* P-0291: T-062, p. 16. Nicolas Tiangaye, shown a report dated 19 September 2013 on the military security situation in Bangui, stated that he did not receive the information contained in this document: P-0291: ICC-01/14-01/18-T-051-CONF-ENG, pp. 34-35, referring to report, CAR-OTP-2075-1001.
[1249] Media reports dated September 2013, CAR-OTP-2061-1428; CAR-OTP-2074-0278, at 0279-0280, 0287; CAR-OTP-2001-4071.
[1250] *See* below paras 583-586, 588. *See also* paras 589-590.
[1251] *See* below para. 587.
[1252] *See* below para. 587.

iii. Evidentiary analysis

581. The Chamber considered evidence that could show that there was information in the public sphere about a 'pro-Bozizé force' organising and/or preparing a military response in CAR between April and the end of August 2013.

582. The Chamber received evidence of a radio broadcast on 16 April 2013, referring to the presence of 'Bozizé's elements' in Bangui who were disrupting public order and had assassinated Seleka members and asserting that François Bozizé had distributed 20,000 weapons in Bangui before the Seleka arrived as justification for the disarmament operation planned in Boy Rabe.[1253]

583. A further radio broadcast on 5 May 2013 contained a statement by the then Minister of Justice Arsène Sende regarding the opening of an investigation into François Bozizé in relation to crimes allegedly committed since March 2003 when he became President of CAR, as well as 'acts likely to compromise the public peace' that were in progress. The broadcast referred to meetings in Cameroon and activities in the DRC aimed at carrying out terrorist action or destabilising CAR, and similar activities being undertaken in the DRC and the arrest of accomplices in Bangui.[1254]

584. The Chamber also notes a media report from June 2013 in which there are references to Levy Yakete's announcement on *Radio France Internationale* on 16 June 2013 of a new rebel movement named *Mouvement Populaire pour la Libération de Centrafrique* created in Cameroon.[1255]

585. The Chamber has also had regard to a news article from 14 August 2013 referring to the recruitment of fighters in Yaoundé, noting that since the ousting of François Bozizé, many members of the FACA and Presidential Guard had taken refuge in Cameroon and were living in precarious conditions.[1256]

586. There is evidence that François Bozizé publicly expressed his intention to return to power

[1253] Audio, CAR-OTP-2042-0747; transcript, CAR-OTP-2130-9389.
[1254] Audio, CAR-OTP-2042-2217, at 00:23:12; transcript, CAR-OTP-2122-7378, at 7285.
[1255] Media report, CAR-OTP-2074-0411, at 0413, 0420.
[1256] Media report, CAR-OTP-2001-4020.

to complete his mandate in an interview on 16 August 2013.[1257] The Chamber also recalls that FROCCA, linked to François Bozizé, published its first press release on 16 August 2013 referring to 'the duty of expelling, by legal means, the Seleka criminals from the Central African self that they have defiled and desecrated' and calling on 'the Central African collective conscience with a view to a conditional adherence to this legitimate struggle for national liberation'.[1258]

587. The Chamber further recalls P-0884's testimony about a public protest seeking, *inter alia*, Michel Djotodia's resignation at Bangui airport after the Seleka assault on Boy Rabe in August 2013.[1259]

588. P-0342, when asked about the knowledge in Bangui about the formation of the Anti-Balaka, stated that,

> the reign of the Seleka, that lasted between eight and nine months. But what you have to remember is that from the sixth month, in fact, the nebulous Anti-Balaka were preparing arms and there was information that was circulating around that in Bangui or in the hinterland. [….] And from […] the sixth month towards December, there were a series of exactions, series of threats, series of kidnappings in the town of Bangui at that time.[1260]

589. There is no mention in the evidence of the Anti-Balaka in any public report prior to 31 August 2013. Defence witness, P-0037 testified that he began to receive information in September 2013 from outside Bangui that there was a form of organisation that would oppose the Seleka underway and that before October 2013, he had no information about clashes.[1261] There was no indication that the UN considered that an armed conflict not of an international character was ongoing between the Seleka and the Anti-Balaka in the period from 24 March to December 2013.

590. Having regard to the foregoing, the Chamber considers that these media reports and testimony concern the organisation of protests, popular movements, public disorder and

[1257] Media report, CAR-OTP-2001-4146, at 4147 (also stating that they were in contact with some petty chiefs of the Seleka as well as the FACA who are in hiding and stated that it would be enough for the Chadian forces present in CAR to leave the country for the balance of power to be reversed).
[1258] Press release, CAR-OTP-2074-0366, at 0375.
[1259] P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-055-CONF-ENG, pp. 18-20; P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-058-CONF-ENG, p. 17.
[1260] P-0342: T-124, p. 34. P-0342 alluded to there being 'some kind of organisation' prior to September 2013 but was categorical that the [REDACTED] was in September 2013 [REDACTED]: P-0342: T-126, pp. 23, 47-48. *See also* P-0022: T-134, p. 46.
[1261] P-0037: CAR-D33-0015-4492, at 4499-4450.

security threats against the Seleka between April and the end of August 2013. The Chamber considers that there was no reference in these media reports to any facts that could show the existence of an armed entity organising against the Seleka prior to 31 August 2013. There is no reference in these reports to armed action between the Seleka and any other armed entity, as such.

591. The Chamber recalls that it could not determine on the basis of the evidence that the Seleka were aware of the extent to which the Anti-Balaka were gathering, recruiting and preparing with a view to engaging militarily against the Seleka until the operations of the Anti-Balaka became apparent.[1262]

iv. Legal findings

592. Having regard to the factual findings above,[1263] the Chamber could not conclude beyond reasonable doubt that Mr Said had the requisite awareness of factual circumstances that established the existence of an armed conflict.

593. The Chamber recalls that, as per article 8 of the Statute, there is no requirement for a legal evaluation by the perpetrator as to the existence of an armed conflict or its character as international or non-international. Based on the foregoing, the Chamber was not satisfied that the information that may have been available to Mr Said was sufficient for him to have been aware of the factual circumstances establishing the existence of an armed conflict.

594. Accordingly, the Chamber finds that, even assuming *arguendo* that there was a continuing armed conflict between 24 March 2013 to at least until 10 January 2014, Mr Said was not aware of the factual circumstances that established the existence of the armed conflict at the time of the commission of the charged incidents.

B. CONTEXTUAL ELEMENTS OF CRIMES AGAINST HUMANITY

1. Applicable law

a) General framework

595. In accordance with article 7(1) of the Statute, the acts specified as crimes against

[1262] *See* above para. 387.
[1263] *See* above paras 580-581.

humanity therein must be committed 'as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack'. Article 7(2)(a) provides that '[f]or the purpose of paragraph 1:

> (a) "Attack directed against any civilian population" means a course of conduct involving the multiple commission of acts referred to in paragraph 1 against any civilian population, pursuant to or in furtherance of a State or organizational policy to commit such attack […]'.

596. The Appeals Chamber has held that '[t]hese contextual elements set a threshold that exclude isolated and random acts, and ordinary crimes under national law, from the ambit of the Court's jurisdiction over crimes against humanity'.[1264]

b) Attack

597. According to article 7(2) of the Statute, an 'attack' in this context means a 'course of conduct involving the multiple commission of acts referred to in [article 7(1)]' of the Statute.[1265] According to the Elements of Crimes, the attack need not be a military attack.[1266] The requirement that the acts form part of a 'course of conduct' indicates that article 7 is meant to cover a series or overall flow of events, as opposed to a mere aggregate of random or isolated acts.[1267] The 'multiple commission of acts' sets a quantitative threshold involving a certain number of acts falling within the course of conduct.[1268]

598. The Chamber considers that, although property crimes are not included under article 7(1) of the Statute, the unlawful appropriation of property could in certain circumstances be encompassed by the crime of persecution under article 7(1)(h) of the Statute. In this regard, the Chamber notes that the definition of persecution under articles 7(1)(h) and 7(2)(g) of the Statute refers to the intentional and severe deprivation of fundamental rights on grounds that are universally recognised as impermissible under international

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[1264] *Ntaganda* Appeal Judgment, ICC-01/04-02/06-2666-Red, para. 416.
[1265] Article 7(2)(a) of the Statute.
[1266] Paragraph 3 of the Introduction to the Elements of Crimes, article 7, Crimes against Humanity.
[1267] *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 692; *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 3769; *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 1105; *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 2674; *Ntaganda* Trial Judgment, ICC-01/04-02/06-2359, para. 662.
[1268] *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 692; *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 3770; *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 1105; *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 2674; *Ntaganda* Trial Judgment, ICC-01/04-02/06-2359, para. 663.

law. The Statute does not specify the type of act that could amount to persecution. The act need not itself constitute a crime under article 7(1) of the Statute, although it is required that the persecutory act be carried out in connection with other crimes (specifically those referred to in article 7(1) of the Statute or other crimes within the jurisdiction of the Court).[1269] The Chamber considers the right to private property to be a fundamental right, noting that this is explicitly reflected in article 17 of the Universal Declaration of Human Rights and a number of regional human rights instruments, as well as in the jurisprudence of regional courts of justice and human rights courts.[1270] Accordingly, looting of property could be considered as part of the 'course of conduct involving the multiple commission of acts referred to in [article 7(1)]' when it constitutes an act of persecution.[1271]

c) Widespread or systematic

599. According to article 7(1) of the Statute the attack must be widespread or systematic. The term 'widespread' connotes the large-scale nature of the attack and the number of targeted persons.[1272] The assessment of whether the attack is widespread is neither exclusively quantitative nor geographical, but must be carried out on the basis of all the relevant facts of the case.[1273]

[1269] *See* paragraphs 1 and 4 of the Elements of Crimes of article 7(1)(h) of the Statute. *See also* below paras 889-891.

[1270] Article 1 of the Protocol No. 1 to the European Convention on Human Rights; article 21 of the American Convention on Human Rights; article 14 of the African Charter on Human and Peoples' Rights; article 17 of the Charter of Fundamental Rights of the European Union. *See also* *Mellacher and Others v. Austria* Judgment, para. 48; *SIA 'A' v. C and Others* Judgment, para. 100; *Liselotte Hauer v. Land Rheinland-Pfalz* Judgment, pp. 3744-3745; *SERAC and CESR v. Nigeria* Communication, paras 45, 59-60; *Noca v. Democratic Republic of Congo* Communication, para. 159.

[1271] *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, paras 3840, 4002, 4340; *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, paras 2845-2846. *See also* *Blaškić* Appeal Judgment, paras 146-149; *Blaškić* Trial Judgment, para. 227; *Tadić* Trial Judgment, paras 703-704, 707, referring to the IMT at Nuremberg's statements in the *Leadership Corps of the Nazi Party* case, the *Seyss-Inquart* case, the *Funk* case, the *Frick* case, and the *Goering* case, and to the *Eichmann* Judgment, in which the 'plunder of property of those Jews who were forced to emigrate or who were deported was found to be a crime against humanity when committed "by means of terror or linked with other acts of violence as defined in the Law, or when it was a result of those acts, so that it was part of a comprehensive process, as was the plunder by the Centres for Jewish Emigration of those who were deported and exterminated"'.

[1272] *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 701; *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 3778; *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 1113; *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 2681; *Ntaganda* Trial Judgment, ICC-01/04-02/06-2359, para. 691; *Katanga* Trial Judgment, ICC-01/04-01/07-3436-tENG, para. 1123.

[1273] *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 701; *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 3778; *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 1113; *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 2681; *Ntaganda* Trial Judgment, ICC-01/04-02/06-2359, para. 691.

600. The term 'systematic' reflects the organised nature of the violent acts, referring often to the existence of 'patterns of crimes' or the 'recurring or continuous perpetration of interlinked, non-random acts of violence' and the improbability of their random or accidental occurrence.[1274]

d) Directed against any civilian population

601. The course of conduct must be directed against any *civilian* population. In assessing whether an individual or population is civilian in nature, the Chamber considers it appropriate to have regard to the particular situation of those individuals who were the subject of the attack.[1275]

602. The requirement that the attack be directed against any civilian *population* implies that it must target a collective, as opposed to individual civilians.[1276] The entire population of the geographical area in which the attack took place need not have been subjected to the attack; '[i]t is sufficient to show that enough individuals were targeted in the course of the attack, or that they were targeted in such a way as to satisfy the Chamber that the attack was in fact directed against a civilian "population", rather than against a limited and randomly selected number of individuals'.[1277] The presence within a civilian population of individuals who are not civilians does not, as such, deprive the population of its civilian character[1278] but, as set out further below, the proportion of non-civilians

[1274] *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 701; *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 3779; *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 1114; *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 2682; *Ntaganda* Trial Judgment, ICC-01/04-02/06-2359, para. 692; *Katanga* Trial Judgment, ICC-01/04-01/07-3436-tENG, para. 1123.

[1275] *Bisengimana* Trial Judgment, para. 49; *Kordić and Čerkez* Trial Judgment, para. 180; *Blaškić* Trial Judgment, para. 214. The Chamber acknowledges that subsequent jurisprudence at the *ad hoc* tribunals deviated from this earlier jurisprudence and adopted the definition of civilian found in article 50(1) of Additional Protocol I: *Martić* Appeal Judgment, paras 297-299; *Martić* Trial Judgment, para. 55. *See also* *Mrkšić and Šljivančanin* Appeal Judgment, para. 35; *Mrkšić et al.* Trial Judgment, paras 454-458, 460, n. 1703. The Chamber notes that the Statute recognises that crimes against humanity can be committed in times of peace and need not necessarily take place in the context of an armed conflict. Considering that the article 50(1) of Additional Protocol I definition of civilian applies only in the context of international armed conflicts, the Chamber finds that it is not apt to define the concept of 'civilian population' for the purposes of crimes against humanity which may be committed in non-international armed conflicts and in circumstances where there is no armed conflict. *Case 002/01* Trial Judgment, para. 186; *Case 003* Notification of interpretation of 'attack against the civilian population', paras 50-54.

[1276] *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 694; *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 3771; *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 1106; *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 2675.

[1277] *Kunarac et al.* Appeal Judgment, para. 90. *See also* *Katanga* Trial Judgment, ICC-01/04-01/07-3436-tENG, para. 1105.

[1278] *Mrkšić and Šljivančanin* Appeal Judgment, para. 31; *Martić* Appeal Judgment, para. 307; *Case 002/02* Trial Judgment, para. 310; *Case 001* Trial Judgment, paras 305-311; *Sesay et al.* Trial Judgment, para. 83; *Martić* Trial Judgment, para. 50.

present will be a consideration in determining whether the civilian population was targeted.[1279]

603. The attack must be *directed against* any civilian population, meaning that the civilian population was targeted in the attack.[1280] The Appeals Chamber has held that '[a]lthough the phrase suggests otherwise, it does not establish a legal requirement that the *main* aim or object of the relevant acts was to attack civilians [and] [a]n attack directed against a civilian population may also serve other objectives or motives'.[1281] In the case of the *Prosecutor v. Bosco Ntaganda*, the Appeals Chamber found that the '[t]he question of whether an attack was directed against a civilian population is essentially a factual issue that may be assessed by considering, *inter alia*, the [following] criteria', namely: 'the means and method used in the course of the attack, the status of the victims, their number, the discriminatory nature of the attack, the nature of the crimes committed in its course, the resistance to the assailants at the time and the extent to which the attacking force may be said to have complied or attempted to comply with the precautionary requirements of the laws of war'.[1282]

604. Although the attack must be directed against a civilian population for the purposes of establishing the contextual elements, once established, there is no requirement that the individual victims of charged crimes against humanity fall within the definition of civilian.[1283] According to the Elements of Crimes, the victims of the crimes in question need only be 'persons'.[1284] However, as set out in more detail below, a nexus between

[1279] *Bemba* Trial Judgment, ICC-01/05-01/08-3343, para. 153; *Katanga* Trial Judgment, ICC-01/04-01/07-3436-tENG, para. 1104. *See also* *Mrkšić and Šljivančanin* Appeal Judgment, para. 30; *Kunarac et al.* Appeal Judgment, para. 91.
[1280] *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 2675; *Ntaganda* Trial Judgment, ICC-01/04-02/06-2359, para. 668; *Katanga* Trial Judgment, ICC-01/04-01/07-3436-tENG, para. 1104.
[1281] *Ntaganda* Appeal Judgment, ICC-01/04-02/06-2666-Red, para. 424 (emphasis in original). *See also* *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 694; *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 3771; *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 1107.
[1282] *Ntaganda* Appeal Judgment, ICC-01/04-02/06-2666-Red, paras 422-424, referring to *Kunarac et al.* Appeal Judgment, para. 91.
[1283] *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 3772; *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 1106; *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 2675; *Ntaganda* Trial Judgment, ICC-01/04-02/06-2359, para. 669. *See also* *Mrkšić and Šljivančanin* Appeal Judgment, para. 32, where the ICTY Appeals Chamber held, '[a]ccordingly, whereas the civilian status of the victims, the number of civilians, and the proportion of civilians within a civilian population are factors relevant to the determination of whether the *chapeau* requirement of Article 5 of the Statute that an attack be directed against a "civilian population" is fulfilled, there is no requirement nor is it an element of crimes against humanity that the victims of the underlying crimes be "civilians"'.
[1284] *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 3772; *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 2675; *Ntaganda* Trial Judgment, ICC-01/04-02/06-2359, para. 669

these crimes and the attack is required in the sense that it must be established that the crimes were *part of* the widespread or systematic attack in question.

e) Organisational policy

605. The 'course of conduct involving the multiple commission of acts' must take place 'pursuant to or in furtherance of a State or organizational policy to commit such attack' within the meaning of article 7(2)(a) of the Statute. The Elements of Crimes specify that the '"policy to commit such attack" requires that the […] organization actively promote or encourage such an attack against a civilian population'.[1285]

606. As regards the 'organization' pursuing the policy, the Chamber notes the definition adopted by Trial Chamber II:

> the connection of the term "organisation" to the very existence of the attack and not to its systematic or widespread nature presupposes that the organisation has sufficient resources, means and capacity to bring about the course of conduct or the operation involving the multiple commission of acts referred to in article 7(2)(a) of the Statute. It therefore suffices that the organisation [has] a set of structures or mechanisms, whatever those may be, that are sufficiently efficient to ensure the coordination necessary to carry out an attack directed against a civilian population.[1286]

607. As the terms 'pursuant to or in furtherance of' imply, the policy requirement ensures that the multiple acts forming the course of conduct are linked.[1287] It ensures that a series of acts which are unrelated or perpetrated by individuals acting randomly on their own are excluded.[1288] It need not be established that each individual act forming the attack be carried out pursuant to or in furtherance of an organisational policy; rather, it is the course of conduct or attack itself that must be so linked.[1289]

608. The Chamber considers that it is rare for a State or organisation to adopt and disseminate a pre-established plan encouraging an attack against a civilian population.[1290] Thus, the

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[1285] Paragraph 3 of the Introduction to the Elements of Crimes, article 7.
[1286] *Katanga* Trial Judgment, ICC-01/04-01/07-3436-tENG, para. 1119. *See also* *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 3774; *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 1109; *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 2677.
[1287] *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 700.
[1288] *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 700; *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 3775; *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 1111; *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 2678; *Bemba* Trial Judgment, ICC-01/05-01/08-3343, para. 161.
[1289] *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 3775; *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 1111; *Katanga* Trial Judgment, ICC-01/04-01/07-3436-tENG, para. 1115.
[1290] *Katanga* Trial Judgment, ICC-01/04-01/07-3436-tENG, para. 1109.

'policy' may be inferred from a variety of factors, such as: (i) the fact that the attack was planned or directed; (ii) the existence of preparations or collective mobilisation orchestrated and coordinated by the organisation; (iii) the existence of a recurrent pattern of violence for example repeated actions according to the same sequence; (iv) the use of public or private resources to further the policy; (v) the involvement of organisational forces in the commission of crimes; (vi) statements, instructions or documentation attributable to the organisation condoning or encouraging the commission of crimes; and (vii) an underlying motivation.[1291] In principle, a State or organisation committing a systematic attack against a civilian population will satisfy the policy requirement.[1292]

609. The Elements of Crimes provide that an 'organizational policy' 'may, in exceptional circumstances, be implemented by a deliberate failure to take action, which is consciously aimed at encouraging such attack. The existence of such a policy cannot be inferred solely from the absence of governmental or organizational action'.[1293]

2. Introduction

610. The following sections of the judgment set out the Chamber's factual findings, evidentiary analysis and legal findings relevant to the period following the 24 March 2013 coup d'état taking into account: (i) the Seleka's attack against the civilian population of Bangui; (ii) the organisation and structure of the Seleka following the 24 March 2013 coup d'état; (iii) the relationship between the Seleka and the CAR State authorities; and (iv) the response of the international community and the Seleka to the commission of crimes by the Seleka.

611. In this section, in assessing whether the Seleka engaged in a course of conduct involving the multiple commission of acts referred to in article 7(1) of the Statute against the civilian population of Bangui, the Chamber considers evidence with respect to: (i) the population targeted; (ii) the general pattern of crimes committed by the Seleka from at least April 2013 until at least November 2013, including murder, rape, looting or

[1291] *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 698; *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 3776; *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 1110; *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 2679; *Ntaganda* Trial Judgment, ICC-01/04-02/06-2359, para. 674; *Katanga* Trial Judgment, ICC-01/04-01/07-3436-tENG, paras 1108-1110.
[1292] *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 699; *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 3776; *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 1110; *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 2679; *Katanga* Trial Judgment, ICC-01/04-01/07-3436-tENG, paras 1111-1112.
[1293] Paragraph 3 of the Introduction to the Elements of Crimes, article 7, n. 6.

unlawful appropriation of property and detention; and (iii) specific operations or acts perpetrated by the Seleka, as enumerated in the Confirmation of Charges Decision, namely: (a) an operation in the 7th arrondissement on or about 13 April 2013; (b) an operation in Boy Rabe around 14-16 April 2013; (c) an operation in Boy Rabe on or about 20 August 2013; and (d) the stop and search of a minibus in PK9 on or about 13 July 2013.

3. Factual findings

a) Mistreatment of civilian population

i. Pattern of crimes

612. As explained below, following the takeover of Bangui, the Seleka commenced a campaign of looting and violence across the city.[1294] Seleka members threatened, mistreated, raped and killed civilians as they looted properties.[1295] The Seleka conducted a number of operations during which they entered neighbourhoods of Bangui *en masse* in convoys of vehicles shooting indiscriminately at the persons living there.[1296] For example, the Seleka under the command of General Abdoulaye Hissene in Camp Kassai terrorised the population of the surrounding area.[1297] This pattern of conduct continued until at least November 2013.[1298]

a. Killing

613. The Seleka killed numerous civilians and committed countless acts of violence against the population.[1299] Throughout the Seleka regime in 2013, male bodies were found in the Oubangui River, near the Hotel Oubangui.[1300] At least some of these men were killed in or near Camp de Roux by General Arda's men.[1301] The Seleka under Colonel Kondo, who were based at the Lycée Boganda and the Old Post of Communications across the road, would detain and kill people and dump their bodies in the surrounding areas.[1302]

[1294] *See* below para. 665.
[1295] *See* below para. 674. *See also* paras 668, 671.
[1296] *See* below para. 666.
[1296] *See* below para. 666.
[1297] *See* below para. 666.
[1298] *See* below para. 665.
[1299] *See* below paras 667-668.
[1300] *See* below para. 669.
[1301] *See* below para. 669.
[1302] *See* below para. 670.

Colonel Kondo's public statements to the effect that he considered a chicken to be more valuable than a human gained notoriety in Bangui at the time.[1303]

b. Rape

614. Seleka members raped women and girls particularly in the 4th and 7th arrondissements and also raped a number of men.[1304]

c. Looting

615. The Seleka looted homes, stealing residents' savings, livestock and belongings, including refrigerators, mattresses, televisions, vehicles, motorbikes and other valuable goods.[1305] Seleka members threatened, mistreated, raped and killed civilians as they looted properties across Bangui.[1306] Looted property was stored in the Seleka base at Sapeurs-Pompiers under the control of Moussa Assimeh, and senior Seleka leaders, including Nouradine Adam, Michel Djotodia, Moussa Assimeh and Rakiss were implicated in looting.[1307] Moussa Assimeh was forced to leave CAR with other Sudanese mercenaries at the end of 2013 and, before he left, Michel Djotodia held a ceremony in Camp de Roux for him and awarded him a medal.[1308] Nouradine Adam, who was Minister of Public Security at the time, would issue *laissez-passer* that would enable stolen vehicles to travel freely through check-points or abroad to places such as Chad or Cameroon.[1309]

d. Detention

(i) Generally

616. The Seleka apprehended and then detained, mistreated and killed multiple residents of Bangui.[1310] The Seleka rounded up men from the streets and from their homes or

[1303] *See* below para. 670.
[1304] *See* below paras 671-672.
[1305] *See* below para. 673.
[1306] *See* below paras 673-674.
[1307] *See* below paras 675-676.
[1308] *See* below para. 676.
[1309] *See* below para. 677.
[1310] *See* below paras 678-697.

workplaces, and carried out illegal arrests.[1311] They also abducted women.[1312] The Seleka detained these persons at several locations, including the OCRB, Camp de Roux, Camp Kassai, CEDAD, SERD, also known as SRI or *Section de Recherches et d'Investigations* (the 'SRI'), Sapeurs-Pompiers, Ngaragba prison, Camp Béal, Camp *Batallion de soutien et des services* (hereinafter: 'BSS') and Base 124.[1313] Detainees were transferred between the different detention locations.[1314] The Seleka tied up multiple men who were detained at these locations in the *arbatachar* manner and/or seriously beat them.[1315] Michel Djotodia was involved in and aware of the detention and mistreatment of individuals at Camp de Roux and the OCRB.[1316]

617. The Seleka also extorted money from Bangui residents for the release of their detained family members or for the recovery of stolen property.[1317] General Al Khatim and Moussa Assimeh detained people and extorted money from them at Camp BSS and Sapeurs-Pompiers.[1318] Colonel Abdel Kader detained Christians in dire conditions at the SERD and would not release them until he was paid a sum of money.[1319] Colonels Hissene and Mahmoud would similarly demand money from the relatives of detainees to secure their release and the detainees whose families could not pay the ransom were killed.[1320]

(ii) Detention at the OCRB

618. Following the takeover of Bangui in March 2013, the Seleka under the direct authority of Nouradine Adam began to use the OCRB as a detention facility, where they mistreated and tortured detainees and extorted money from family members for their release.[1321] By late August the Seleka were coming under increased international and domestic pressure

[1311] *See* below para. 678.
[1312] *See* below para. 678.
[1313] *See* below paras 679-680.
[1314] *See* below 943-945 (detention of P-2692 at Camp Kassai before being transferred to the OCRB); 964-965, 1037-1043 (detention of 16 persons arrested in connection with the flyers, as well as P-2241, P-2400, P-2239 and [REDACTED] at Camp de Roux before being transferred to the OCRB); 973-974 (detention of P-1429 and other individuals at [REDACTED] before being transferred to the OCRB); 970; [REDACTED] (detention of 16 persons arrested in connection with the flyers and [REDACTED] detained at the OCRB before being transferred to Ngaragba prison); 999-1001 (detention of P-3064, P-3056, P-3053 and another man at OCRB Ngouciment before being transferred to the OCRB).
[1315] *See* below paras 681-682.
[1316] *See* below para. 682.
[1317] *See* below paras 683, 844.
[1318] *See* below para. 680.
[1319] *See* below para. 683.
[1320] *See* below para. 683.
[1321] *See* below section IV B1.

regarding the crimes they were committing,[1322] and Nouradine Adam was replaced as Minister of Public Security.[1323] In this context, a decision was taken to remove the Seleka from the OCRB.[1324]

619. The Seleka officially left the OCRB on 30 August 2013 and a ceremony was held at the Directorate General of the Police to mark the departure of Seleka members from the OCRB.[1325] Michel Djotodia paid the Seleka members who had been operating at the OCRB 5 million CFA which was distributed amongst them.[1326]

(iii)Detention at CEDAD

620. By late August 2013, Nouradine Adam had moved his detention operations from the OCRB to CEDAD, which served as a secret Seleka detention centre and the base for a security and intelligence service of which Nouradine Adam was appointed Director General by Michel Djotodia.[1327] Several members of the Seleka who had previously worked at the OCRB moved to CEDAD immediately thereafter.[1328] Nouradine Adam ordered the detention of men suspected of being opposed to the Seleka regime at CEDAD.[1329] Amongst the detainees were members of Bozizé's Presidential Guard, a FACA, a gendarme, a police officer, members of the national army and various civilians, including a tailor, a travelling salesman and a pastor.[1330] Several Muslims and Seleka members were also detained at CEDAD.[1331] In mid-September 2013, Seleka members forcibly arrested [REDACTED] and [REDACTED] and illegally detained them in CEDAD for approximately two months.[1332]

621. The Seleka attempted to keep their activities at CEDAD clandestine.[1333] Those who were arrested were often hooded and driven around during their transfer to CEDAD until they lost their bearings.[1334] At CEDAD, detainees were held in airless overcrowded cells,

[1322] *See* below paras 815-817.
[1323] *See* below paras 808-810.
[1324] *See* below paras 685-686.
[1325] *See* below para. 686.
[1326] *See* below para. 687.
[1327] *See* below paras 688, 810.
[1328] *See* below para. 689.
[1329] *See* below para. 690. *See also* para. 688.
[1330] *See* below para. 691.
[1331] *See* below para. 690.
[1332] *See* below paras 693-694.
[1333] *See* below para. 688.
[1334] *See* below para. 692.
[1334] *See* below para. 694.

without windows or toilets.[1335] Some detainees were handcuffed together with other detainees, while others had their hands tied behind their backs.[1336] The detainees were given limited food and water.[1337]

622. The Seleka tortured and mistreated detainees at CEDAD.[1338] [REDACTED] and [REDACTED] were hooded and interrogated, including regarding their association with François Bozizé's administration and weapons.[1339] The Seleka beat and whipped [REDACTED] to force him to confess to whatever the Seleka wanted him to say, and beat [REDACTED] and whipped him with a whip [REDACTED], which tore his skin.[1340] The detainees did not receive any medical treatment for the injuries they sustained during these beatings.[1341] At least one Muslim detainee and two Seleka members were killed at CEDAD and the bodies of the deceased were temporarily placed in the cell with the detainees prior to being removed.[1342]

623. Nouradine Adam and Mahamat Saleh were amongst those involved in the interrogation and mistreatment of detainees at CEDAD.[1343]

ii. Specific events

a. Operation in the 7th arrondissement

624. On or about 13 April 2013, the Seleka launched an operation in the 7th arrondissement.[1344] As the Seleka descended upon the 7th arrondissement, they shot at civilians.[1345] Some residents of the 7th arrondissement hid from the Seleka, while others attempted to flee.[1346] Uniformed Seleka members blocked exit roads with their vehicles and occupied the port, shooting at those who fled.[1347] The Seleka targeted unarmed civilians, particularly men and boys.[1348] During and immediately following the operation, armed Seleka members

[1335] *See* below para. 694.
[1336] *See* below para. 694.
[1337] *See* below para. 694.
[1338] *See* below paras 695-696.
[1339] *See* below para. 695.
[1340] *See* below para. 695.
[1341] *See* below para. 696.
[1342] *See* below para. 697.
[1343] *See* below para. 698.
[1344] *See* below para. 700.
[1345] *See* below para. 700.
[1346] *See* below para. 701.
[1347] *See* below para. 701.
[1348] *See* below paras 703-704.

searched houses for weapons and members of the FACA, using local informants (*indicateurs*) to locate their targets.[1349] In the course of the operation and its immediate aftermath, the Seleka committed multiple crimes against the civilian population.[1350] The Seleka killed, seriously injured, arrested and imprisoned civilians, including children, and looted property and extorted money. [1351]

b. Operations in Boy Rabe

625. The Chamber recalls its findings set out above that, prior to the April operation in Boy Rabe, two Seleka members were killed by a grenade on 11 April 2013 in Boy Rabe, and, prior to the August operation, shells were fired the night before Michel Djotodia's inauguration on 18 August 2013 at Michel Djotodia's convoy and the Seleka stationed at the National Assembly in an attempt to disrupt the swearing-in ceremony.[1352]

626. Prior to the April or August operations in Boy Rabe, Nouradine Adam and Michel Djotodia made statements on the radio that led people in Boy Rabe to understand that they would be attacked and punished in retribution for an attack on Seleka guards.[1353] Following the broadcast of these threatening messages, Nouradine Adam's Chief of Staff met with community representatives and warned them that a 'swift reaction was to come' and that they would 'burn and raze Boy Rabe for three days'.[1354] Nouradine Adam's Chief of Staff told the community representatives that he was speaking in the name of the President.[1355] In addition, Nouradine Adam visited the *Chef de Quartier* of one of the neighbourhoods of Boy Rabe following protests against the detention of certain residents and instructed him to tell his people that it was known that they were 'very stubborn' and that they should stop their behaviour or one day he would burn the neighbourhood.[1356]

627. On or about 14 April 2013, hundreds of Seleka members armed with heavy weaponry launched an operation in Boy Rabe.[1357] The operation lasted at least three days.[1358] The

[1349] *See* below paras 702, 753.
[1350] *See* below paras 701, 703-707.
[1351] *See* below paras 703-707.
[1352] *See* above paras 389 (factual finding), 502-503 and below para. 727 (evidentiary analysis).
[1353] *See* below para. 710.
[1354] *See* below para. 711.
[1355] *See* below para. 711.
[1356] *See* below para. 712.
[1357] *See* below para. 713.
[1358] *See* below para. 716.

Seleka blocked entries and exits into the neighbourhood, preventing people from leaving and ambulances from entering.[1359] The Seleka fired at the electricity grid, cutting off access to electricity and water in the neighbourhood.[1360] As the operation unfolded, the Seleka shot indiscriminately at the population.[1361] During the course of the April operation in Boy Rabe, multiple crimes were committed against civilians, including murder, rape, mistreatment and other forms of violence, as well as looting of homes.[1362] Civilians were targeted, specifically those who appeared to be aligned with François Bozizé.[1363]

628. On or about 20 August 2013, the Seleka launched an operation in Boy Rabe in reprisal for individuals firing heavy weapons from Boy Rabe towards the Assemblée Nationale prior to Michel Djotodia's inauguration on 18 August 2013.[1364] The Seleka came with weapons and vehicles and shot indiscriminately at those living in Boy Rabe.[1365] As a result, many people fled the neighbourhood or hid.[1366] During the course of the operation, the Seleka shot and killed or wounded civilians.[1367] The Seleka conducted extensive looting of homes in Boy Rabe during the operation.[1368]

629. A number of Seleka leaders, including Michel Djotodia, Nouradine Adam, as well as other high-ranking Seleka members, were present in Boy Rabe during the April and August operations.[1369] Some Seleka leaders were seen issuing orders and participating in the crimes being committed during the April operation in Boy Rabe.[1370] Nouradine Adam was seen speaking to a Seleka member prior to that Seleka member ordering the shooting of P-1263 and others.[1371]

c. Killing of minibus passengers

630. On or about 13 July 2013, the Seleka arrested four men when T-shirts depicting Bozizé

[1359] *See* below paras 713-715.
[1360] *See* below para. 715.
[1361] *See* below para. 714.
[1362] *See* below paras 717-721.
[1363] *See* below paras 714, 717-721.
[1364] *See* below paras 727-730.
[1365] *See* below paras 730-731.
[1366] *See* below para. 730.
[1367] *See* below paras 733-735.
[1368] *See* below para. 736.
[1369] *See* below paras 723-725, 737-739.
[1370] *See* below para. 723.
[1371] *See* below para. 735.

were found during the search of a minibus at a PK9 Seleka checkpoint.[1372] The Seleka took the men to Camp de Roux and, that night, several Seleka members, including Kader, General Garba and Ousmane, killed them in a manner that caused great suffering.[1373] Their bodies were recovered from the Oubangui River a day or two later.[1374]

iii. Population targeted

631. During their campaign of violence after the takeover on 24 March 2013, the Seleka particularly targeted those they perceived to support François Bozizé.[1375] The individuals targeted included Christians, people belonging to the Gbaya, Mandja and Banda ethnic groups, men and boys, (former) members of the FACA and Presidential Guard, and other persons perceived to be associated with François Bozizé or his regime.[1376] Women who were perceived to be associated with men in the FACA were similarly targeted and mistreated.[1377] Muslims, in contrast, were largely spared.[1378] Michel Djotodia and his supporters gave speeches to the effect that Christians had been ruling CAR since it gained independence up to 2013 and that they (the Seleka) would need to have power for 50 years.[1379]

632. The Seleka focused their operations on areas which were perceived to be strongholds for Bozizé supporters, including the 4th arrondissement, particularly the neighbourhood of Boy Rabe, a densely populated area with approximately 8,000 residents.[1380] Many senior officials and soldiers from the Bozizé regime and people of Gbaya ethnicity lived in Boy Rabe and the Seleka believed that weapons were hidden there and that the area represented a security threat to them.[1381] The Seleka also targeted the 7th arrondissement, a densely populated area with more than 30,000 residents,[1382] as well as Boeing, Combattant and PK12 in Bangui.[1383] When conducting house-to-house searches, the Seleka used local informants or *indicateurs* to assist them in identifying Bozizé

[1372] *See* below paras 740-741.
[1373] *See* below paras 741-742, 744-748.
[1374] *See* below paras 743-745.
[1375] *See* below paras 749-750, 753-755.
[1376] *See* below para. 749.
[1377] *See* below para. 750.
[1378] *See* below para. 751.
[1379] *See* below para. 750.
[1380] *See* below para. 752.
[1381] *See* below para. 752.
[1382] *See* below para. 753.
[1383] *See* below para. 753.

supporters.[1384]

633. The population of Bangui was not engaged in armed or violent resistance against the Seleka during this time.[1385] Although there were a limited number of incidents in which there was retaliation against Seleka members committing crimes or patrolling in Bangui, the Chamber is satisfied that these were isolated incidents and not indicative of the presence of organised armed resistance within the civilian population.[1386]

634. When the Seleka entered Bangui, those who felt particularly at risk of being targeted by the Seleka because of their association with François Bozizé's former administration and military and security forces fled and found refuge in other countries, or hid in or around Bangui.[1387] People generally fled and sought refuge elsewhere to avoid being shot or attacked when the Seleka entered targeted neighbourhoods.[1388] Men in particular fled due to targeting.[1389]

b) Organisation and structure of the Seleka following the 24 March 2013 coup d'état

635. Following the Seleka coup d'état, the leaders of the individual armed groups forming the Seleka (the CPJP, CPSK and UFDR) continued to play a key role.[1390] Michel Djotodia and Nouradine Adam continued to be key leaders of the Seleka coalition following their arrival in Bangui.[1391] Michel Djotodia regularly communicated with Seleka commanders and was seen by some as the person 'who controlled everything' within the Seleka.[1392] Others perceived Nouradine Adam to be more powerful than Michel Djotodia.[1393] Although Michel Djotodia became President of CAR, he did not have control over all Seleka members as they remained aligned to the hierarchy within the original groups that made up the Seleka.[1394] The Chamber is unable to conclude that Michel Djotodia was senior to or more powerful than Nouradine Adam within the Seleka. While witnesses had different perceptions on who was more powerful, it is clear from the evidence that Michel

[1384] *See* below paras 665, 754.
[1385] *See* below paras 756-758.
[1386] *See* below paras 757-758.
[1387] *See* below para. 755.
[1388] *See* below para. 755.
[1389] *See* below para. 755.
[1390] *See* below paras 760-765.
[1391] *See* below paras 760-761.
[1392] *See* below para. 760.
[1393] *See* below para. 761.
[1394] *See* below paras 760, 766, 770.

Djotodia and Nouradine Adam had a close working relationship and were in regular contact and that any disagreements between them did not affect their close relationship and coordination during the relevant time period.[1395]

636. Following the takeover of Bangui on 24 March 2013, the Seleka structure remained that of a coalition of groups organised along ethnic lines in which Seleka members maintained loyalty to their own leaders.[1396] Nouradine Adam had control over a large group of Seleka militants aligned with the former CPJP.[1397] General Arda also controlled a significant number of Seleka militants made up of former members of the UFDR of the Goula ethnicity based in Camp de Roux.[1398] General Arda Hakouma was close to Michel Djotodia as they were both Goula Muslims from Birao.[1399]

637. Mohamed Moussa Dhaffane was initially part of Michel Djotodia's inner circle, occupied a high position in the Seleka hierarchy and was appointed Minister of Water, Forests, Wildlife and Fisheries, the Environment and Ecology.[1400] However, by July 2013, Dhaffane had been dismissed from his post and was detained in Camp de Roux, accused of plotting a coup against Michel Djotodia.[1401] Abdoulaye Hissène remained a senior figure within the Seleka coalition and, following the Seleka takeover of Bangui, he reconciled with Nouradine Adam and the CPJP reunited.[1402]

638. The Seleka set up military bases throughout Bangui, and occupied police posts, former FACA bases, State buildings and private properties.[1403] Significant bases included the following: (i) Camp Kassai, which was occupied by a large number of men from the former CPJP (Nouradine Adam's group) under the command of Abdoulaye Hissene; (ii) Camp Béal, where multiple sections of between 100 and 200 men each were based under the command of General Yaya Scout, who was working with Colonel Damboucha (also of the former CPJP); (iii) SERD/SRI, where Abdel Kader was the Officer-in-Charge and where the men of General Abdel Karim Moussa (former Deputy Chief of Staff of the Fundamental CPJP) were based; and (iv) Camp BSS where Al Khatim (Chief of Staff of

[1395] *See* below paras 760-763.
[1396] *See* below para. 766.
[1397] *See* below paras 760, 766, 769.
[1398] *See* below paras 767-768.
[1399] *See* below para. 767.
[1400] *See* below paras 764, 790, n. 1989.
[1401] *See* below para. 764.
[1402] *See* below para. 765.
[1403] *See* below paras 771-773.

the Fundamental CPJP) was the Officer-in-Charge.[1404] A Seleka base was established at Sapeurs-Pompiers under the command of Moussa Assimeh, a Muslim of Sudanese origin who reported to Michel Djotodia.[1405] Bases were established at the Lycée Boganda and premises across the road under the command of Colonel Kondo.[1406]

639. The Seleka also set up checkpoints in several locations in and around Bangui to control the movement of people and goods.[1407]

640. Although the Seleka used military ranks, these did not correspond to the chain of command typical of regular armed forces.[1408] Michel Djotodia nominated generals and colonels on an exceptional basis from amongst the Seleka after he became President, awarding such ranks to persons who had been low-ranking FACA members before joining the Seleka or to persons who had no military training whatsoever.[1409] Low-ranking Seleka members could often choose their own military ranks, although this would be done in consultation with and with the approval of their superiors.[1410] Authority within the Seleka was recognised according to military capacity and not necessarily based on the rank held by an individual.[1411] Seleka members followed instructions from individuals within the *de facto* hierarchy of their groups.[1412]

641. The Seleka registered and identified their members within a few weeks of taking over Bangui.[1413] Members were issued with Seleka identity cards that specified their grade and the section to which they were assigned.[1414] Many people joined the Seleka after they took power and Michel Djotodia acknowledged that it was difficult to provide a precise number of people belonging to the Seleka.[1415]

642. By the time the Seleka arrived in Bangui, they had recovered weapons and vehicles from former FACA and police posts.[1416] They were armed with AK-47s, grenades, machetes

[1404] *See* below para. 771.
[1405] *See* below para. 771.
[1406] *See* below para. 771.
[1407] *See* below para. 773.
[1408] *See* below paras 774-776.
[1409] *See* below para. 774.
[1410] *See* below paras 775-776.
[1411] *See* below para. 776.
[1412] *See* below para. 777.
[1413] *See* below para. 779.
[1414] *See* below para. 779.
[1415] *See* below para. 780.
[1416] *See* above para. 408 and below paras 796, 806.

and spears, as well as heavy weapons such as handheld rocket propelled grenades.[1417] They travelled in vehicles mounted with weapons such as '*Orgues de Staline*', a term used to describe multi-missile launchers.[1418] The Seleka wore diverse military attire, including desert-type military uniforms used by the Sudanese and Chadians, as well as green FACA uniforms and the French uniforms recovered from Bangui military bases.[1419] Sometimes, Seleka members wore military uniforms in combination with civilian clothing and some wore turbans or *kadamouls*.[1420]

643. The various Seleka bases in Bangui were in communication and coordinated their activities. For example, Michel Djotodia provided money to maintain the troops and a system of food distribution was organised among the bases.[1421] The central depot for Seleka food supplies was initially at Sapeurs-Pompiers before it was moved to the police headquarters next to Camp BSS, with a secondary and smaller depot at Base 124.[1422] Persons apprehended and detained were transferred from one location to another in the custody of Seleka members or commanders.[1423] Logistical support for the Seleka was provided by Moussa Assimeh, who was a specialist in heavy weapons.[1424]

644. The Seleka organised military training at Camp de Roux under the instruction of FACA trainers.[1425] Camps including Camp Kassai, Berengo, a camp in Sibut and Camp Béal were designated as military training camps.[1426] Almost 600 Seleka members were sent to Camp Kassai for training in November 2013.[1427]

c) Relationship between the Seleka and the State authorities

645. The Seleka took control over the Presidency and government structures of CAR in the aftermath of the 24 March 2013 coup d'état.[1428] Michel Djotodia proclaimed himself President of CAR, dissolved executive, legislative and judicial bodies and began to rule

[1417] *See* below paras 781-782.
[1418] *See* below para. 781.
[1419] *See* below para. 783.
[1420] *See* below para. 784.
[1421] *See* below paras 785-786.
[1422] *See* below para. 786.
[1423] *See* above para. 617.
[1424] *See* below para. 787.
[1425] *See* below para. 788.
[1426] *See* below paras 788-789.
[1427] *See* below para. 788.
[1428] *See* below para. 790.

by presidential order.[1429] On 31 March 2013, Michel Djotodia established a *de facto* government and appointed Seleka representatives to key ministries.[1430] Nouradine Adam was appointed as Minister of Public Security and Michel Djotodia assumed the role of Minister of National Defence, Military Restructuring, Veterans and Victims of War and the Disarmament, Demobilization and Reintegration Programme (the 'Minister of Defence').[1431]

646. While State institutions, including judicial institutions,[1432] continued to exist and operate during the relevant period, they did not function properly and had no real decision-making power.[1433] At the time, the Central African State had no revenue and had to borrow money to pay civil servants' salaries.[1434] Seleka members dominated the government, while continuing to exercise leadership roles within the Seleka armed group, and exhibited no genuine willingness to engage in democratic processes.[1435] Michel Djotodia and Nouradine Adam did not show up at most Cabinet meetings.[1436] Seleka members pillaged State premises and appropriated State property.[1437] Seleka members were not receiving salaries or wages but their food was paid for from the budget allocated to the FACA.[1438] The Seleka collected taxes but diverted it to their own use so no money reached the State coffers.[1439]

647. Matters related to security and defence and key economic matters were dominated by Seleka members.[1440] Although Henri Wanzet Linguissara continued in his position as the Director General of the Central African police during Michel Djotodia's presidency, in reality, Nouradine Adam controlled the activities of the police and gendarmerie, together with his deputy, Rakiss.[1441] Michel Djotodia, as President and Minister of Defence controlled the FACA and Presidential Guard.[1442] Although Michel Djotodia appointed General Bombayeke and then General Dolewaye as *Chef d'État Major*, true power over

[1429] *See* below para. 790.
[1430] *See* below para. 790.
[1431] *See* below paras 790, n. 1989, 798.
[1432] *See* below para. 795.
[1433] *See* below paras 792-797.
[1434] *See* below para. 797.
[1435] *See* below paras 760-765, 790-793.
[1436] *See* below paras 791-792.
[1437] *See* below para. 796.
[1438] *See* below paras 785, 797.
[1439] *See* below paras 785, 797.
[1440] *See* below paras 790, 798-800, 803.
[1441] *See* below paras 801-802.
[1442] *See* below paras 790, 798.

the armed forces resided in their *de jure* subordinate, Seleka General Abdel Karim Moussa.[1443] General Abdel Karim Moussa was also in charge of Seleka operations and would take orders directly from Michel Djotodia and Nouradine Adam.[1444] Michel Djotodia appointed senior Seleka figures to key positions in the Presidential Guard, including Generals Issa Issaka and Arda Hakouma.[1445]

648. Michel Djotodia and Nouradine Adam, among others, called on members of the defence and security forces to resume their duties following the coup d'état.[1446] Many members of the State armed forces reported back to duty but had a difficult and tense relationship with the Seleka.[1447] The Seleka had taken over former army bases and the FACA members who returned to work were grouped together at one location for their own security, as the Seleka were continually harassing, intimidating and harming them.[1448] Many hid in fear of Seleka retribution.[1449] A limited number of the Central African gendarmerie and police also resumed their duties but did not have operational capacity to fulfil their functions and had limited access to weapons and vehicles as most of them had been stolen by Seleka members.[1450] Police officers were powerless against the Seleka and could only act against Seleka members if other Seleka members were on patrol with them as only Seleka members could arrest another Seleka member.[1451]

649. On 18 August 2013, Michel Djotodia was inaugurated as President.[1452] On 22 August 2013, Michel Djotodia replaced Nouradine Adam with Josué Binoua as Minister of Public Security.[1453] Nouradine Adam's power and influence within the Seleka was not diminished when he was replaced as Minister of Public Security.[1454] On 22 August 2013, Michel Djotodia, at Nouradine Adam's request, appointed him (Adam) as Director General of CEDAD, a security and intelligence service.[1455]

[1443] *See* below para. 799.
[1444] *See* below para. 799.
[1445] *See* below para. 800.
[1446] *See* above paras 436-437 and below para. 764.
[1447] *See* above paras 435-438 and below paras 803-805.
[1448] *See* below para. 804.
[1449] *See* below para. 803.
[1450] *See* below para. 806.
[1451] *See* below para. 807.
[1452] *See* below para. 790.
[1453] *See* below para. 808.
[1454] *See* below paras 809-810.
[1455] *See* below para. 810.

d) Response to the commission of crimes

650. The Seleka's unconstitutional change of government was condemned by the international community.[1456] The African Union Peace and Security Council refused to recognise Michel Djotodia as President, while ECCAS took note of his appointment as the Head of the Transition only.[1457] ECCAS Heads of State insisted that the transition to a representative and inclusive political system envisaged by the 2013 Libreville Agreement should be respected following the coup d'état and convened two Extraordinary Summits of Heads of State and Government in N'Djamena, on 3 and 18 April 2013.[1458]

651. At least partly as a result of pressure from the international community, Michel Djotodia reappointed Nicolas Tiangaye as Prime Minister on 26 March 2013.[1459] The National Transitional Council was established in accordance with the terms of the January 2013 Libreville Agreement and pro forma steps were taken to ensure the transition to a representative and inclusive political system.[1460]

652. The UN, African Union, ECCAS, European Union and international bodies were closely monitoring developments in CAR throughout 2013 and applying pressure in order to ensure respect for the transitional arrangements, an end to human rights violations, and the restoration of security and public order.[1461] In CAR, civilians were publicly protesting and raising international awareness of Seleka exactions against the civilian population.[1462] A number of regional and international peacekeeping missions were augmented or deployed in CAR during 2013, including an ECCAS peacekeeping force (MICOPAX), and the African-led International Support Mission for CAR.[1463]

653. The UN suspended the direct support programme for demobilisation following the Seleka takeover of Bangui but advised Michel Djotodia to set up the DDR process.[1464] The international community called for trust or confidence-building measures to ensure discipline amongst the Seleka, including the confinement of Seleka members to barracks

[1456] *See* below para. 811.
[1457] *See* below para. 811.
[1458] *See* below para. 811.
[1459] *See* below para. 812.
[1460] *See* below paras 812, 814.
[1461] *See* below paras 815, 838.
[1462] *See* below para. 817.
[1463] *See* below para. 816.
[1464] *See* below para. 837.

following the takeover of Bangui.[1465] Similar to the pressure to implement the transition to a representative and inclusive political system, the Seleka were under significant international and domestic pressure to adopt measures to demobilise the Seleka, confine them to barracks and bring an end to criminality.

654. In response to this pressure, the *de facto* government took steps to initiate the confinement to barracks and disarmament of armed Seleka members in Bangui.[1466] Michel Djotodia set up a military police a few weeks after 24 March 2013 with the stated aim of restoring safety and security to Bangui, disarming unruly Seleka members and ensuring that the FACA would not be targeted.[1467] The military police's instructions ultimately came from Nouradine Adam and it had the dual purpose of dealing with the abuses committed by the various Seleka groups and conducting operations on Nouradine Adam's instructions.[1468] However, approximately a month after its establishment, the military police was dismantled and their responsibilities were assigned to leaders in different locations and mixed police/Seleka patrols were implemented.[1469] A commission was set up at some point to disarm the Seleka and Michel Djotodia appointed a coordinator for the DDR programme in May 2013.[1470]

655. These measures failed because the Seleka members generally refused to remain confined to barracks and refused to surrender their weapons.[1471] Efforts to train and integrate selected Seleka members into the FACA took place in November 2013 but the integration did not ultimately take place at that time.[1472]

656. Michel Djotodia and Nouradine Adam also took limited measures directed at restoring law and order in CAR. Michel Djotodia and Nouradine Adam issued public statements and orders that those who engaged in looting should be seriously punished.[1473] Seleka members who committed crimes were sometimes imprisoned, but in practice, justice was selective.[1474] Seleka members were sometimes punished because their victims were

[1465] *See* below para. 836.
[1466] *See* below paras 839-841.
[1467] *See* below para. 839.
[1468] *See* below para. 839.
[1469] *See* below para. 839.
[1470] *See* below paras 837, 841.
[1471] *See* below para. 842.
[1472] *See* below para. 843.
[1473] *See* below para. 818.
[1474] *See* below para. 822.

persons of importance and/or were able to leverage personal connections with higher-ranked Seleka members.[1475] Seleka members who committed exactions were detained for limited periods of time before being released to resume their activities or sent for training.[1476] Some of Bangui's citizens were able to obtain protection from Seleka abuses if they had connections with other Seleka members or by paying the Seleka to provide such protection.[1477]

657. Nouradine Adam took some limited steps to address complaints received by the Ministry of Public Security about the commission of crimes by Seleka members during the relevant time. For example, complaints received were summarised and sent to the Commander of the UN Mission in Bangui and this, sometimes, allowed persons to recover their property.[1478] Nouradine Adam would at times shout at or hit Seleka members who had committed crimes.[1479] At one point, Nouradine Adam introduced a motorbike curfew which was implemented by way of night patrols.[1480]

658. Seleka leaders made efforts to reassure the local population that the crimes being committed would be addressed. Michel Djotodia, Nouradine Adam, Dhaffane, and Moussa met with community leaders and civic actors to reassure them that action was being taken to this end.[1481] At one such meeting, a civic representative described feeling afraid for his life as he saw many vehicles outside containing looted goods and the Seleka at the meeting were bearing arms.[1482] At times, Nouradine Adam and Michel Djotodia would receive the family members and community representatives of persons who had been abducted or mistreated and would give them money as a form of reparation or in order to secure the victims' release from the Seleka.[1483]

659. An initiative was also taken to return the stolen goods collected at Sapeurs-Pompiers, which resulted in crowds of people trying to reclaim their stolen property there.[1484] However, there was no clear evidence as to the success of this initiative.[1485] People had

[1475] *See* below para. 822.
[1476] *See* below para. 821.
[1477] *See* below para. 822.
[1478] *See* below para. 825.
[1479] *See* below para. 826.
[1480] *See* below para. 826.
[1481] *See* below paras 831-835.
[1482] *See* below para. 834.
[1483] *See* below paras 706, 831, 833.
[1484] *See* below para. 844.
[1485] *See* below para. 844.

to prove their ownership of the stolen goods and sometimes had to pay for their property to be returned.[1486]

660. The facts also demonstrate that these efforts were not genuinely aimed at bringing an end to Seleka criminality. Nouradine Adam did not engage with local and international NGOs who were active in responding to the situation of crisis in Bangui at the time. For example, NGOs requested meetings with Nouradine Adam in order to raise the issue of the crimes being committed, but he refused to address them.[1487] Despite Nouradine Adam's assurances that he would cooperate with UNICEF's request for access to military barracks in order to screen for the presence of child-soldiers, access to Camp Béal and Camp de Roux was restricted.[1488] Nouradine Adam informed the UN Office of the High Commissioner for Human Rights (the 'UNHCHR') fact-finding mission that visited CAR between 20 June and 11 July 2013 that the Seleka had not resorted to actions of reckoning and settling scores, and that the rare cases in which this had happened had been addressed.[1489] In view of the information available to Nouradine Adam, this statement was a gross misrepresentation of the situation at that time. Nouradine Adam was also frustrated by protests against the Seleka and declared on the radio after one such protest that non-Muslims protesting against the Seleka had less value than a chicken, an expression that was frequently used by the Seleka regarding civilians in Bangui.[1490]

661. Nouradine Adam's response to Seleka criminality was in contrast with that of Josué Binoua when he replaced him as Minister of Public Security in August 2013.[1491] Josué Binoua made genuine efforts to bring an end to the Seleka's crimes including by patrolling with military officers and police and arresting Seleka members committing crimes and people who were armed.[1492] Josué Binoua also stopped Nouradine Adam's practice of issuing *laissez-passer* for stolen vehicles.[1493]

662. The measures taken by Seleka leaders to restore law and order were insufficient and ineffective and, as set out above, crimes by the Seleka continued unabated during the

[1486] *See* below para. 844.
[1487] *See* below para. 827.
[1488] *See* below para. 827.
[1489] *See* below para. 827.
[1490] *See* below para. 828.
[1491] *See* below paras 685, 829.
[1492] *See* below para. 829.
[1493] *See* below para. 829.

months after the Seleka takeover of Bangui. The only reasonable conclusion based on the evidence is that the confidence-building measures and attempts to restore law and order were not genuine and were adopted by Seleka leaders in an effort to appease the international community, achieve recognition for the *de facto* government and retain power for as long as possible.

4. Evidentiary analysis

663. For the purposes of the following analysis, the Chamber considered the testimony of Nicolas Tiangaye, who was the Prime Minister during the relevant events, as well as that of other senior politicians and government officials, the testimony of Seleka insider witnesses, and Bangui residents, including neighbourhood administrative officials. All of these witnesses were in a position to directly observe and comment on the functioning and actions of the Seleka. The Chamber also considered several items of contemporaneous documentary evidence.

a) Attack against the civilian population

i. Pattern of crimes

664. The Chamber received evidence that following the Seleka takeover of Bangui, the Seleka commenced a campaign of looting across the city,[1494] and engaged in a 'systematic hunt' for Bozizé supporters, conducting house-to-house searches[1495] and using informants (*indicateurs*) to assist them in locating their targets.[1496] P-1524 testified that the Seleka would pay informants to point out the houses of military men, and if the men were not present, they would beat the women to find out where their sons, husbands, and fathers

[1494] *See generally* P-0291: CAR-OTP-2034-0104, at 0118, para. 89; P-0435: CAR-OTP-2017-0036, at 0060, para. 142; P-1289: CAR-OTP-2053-0359, at 0365, para. 33; P-0338: T-017, pp. 51, 54, 56; P-2328: CAR-OTP-2099-0165, at 0208-0209, paras 232-233, draft translation: CAR-OTP-00000147, at 000044-000045, paras 232-233; P-1297: CAR-OTP-2039-0167, at 0173, para. 43. As indicated below, the looting also targeted public property: *See* below para. 796. According to the UNHCHR Fact-Finding Mission Report, the Seleka looted almost all the UN offices and those of international organisations including the ICRC, the World Food Programme, and UNICEF: UNHCHR Fact-Finding Mission Report, CAR-OTP-2034-0270, at 0310, para. 206.

[1495] P-1524: CAR-OTP-2062-0468, at 0475, 0480-0481, paras 31, 64; P-0882: CAR-OTP-2032-0654, at 0659, para. 30; P-1289: CAR-OTP-2053-0359, at 0363, para. 22; P-1180: CAR-OTP-2043-0483, at 0486, paras 18-19; P-0358: CAR-OTP-2043-0433, at 0441, 0443, paras 58, 72.

[1496] P-1524: CAR-OTP-2062-0468, at 0475, 0481, 0486, paras 31, 65, 90; P-0100: CAR-OTP-2027-2535, at 2547-2549, 2554, 2562, paras 73, 81, 114, 161; P-1313: CAR-OTP-2038-0098, at 0104, para. 44; P-1420: CAR-OTP-2040-0811, at 0831-0832, paras 125-126; P-1297: CAR-OTP-2039-0167, at 0178, paras 72-73; P-2337: CAR-OTP-2104-0411, at 0414, para. 17; P-0882: CAR-OTP-2032-0654, at 0660, 0668, paras 36-37, 92; P-0881: CAR-OTP-2032-0682 at 0690-0691, paras 55-56; P-1825: CAR-OTP-2079-0315 at 0319-0320, para. 27. *See also* P-0435: CAR-OTP-2017-0036, at 0060, para. 139.

were hiding.[1497] P-2087 similarly testified that the Seleka threatened and stabbed him in an attempt to extract information.[1498] Witnesses described the pattern of Seleka criminality against the population as continuing throughout the period when the Seleka were in control of Bangui.[1499]

665. Witnesses recalled that the Seleka sometimes conducted operations during which they entered neighbourhoods of Bangui '*en masse*' in convoys of vehicles.[1500] P-1289 testified that General Abdoulaye Hissene would descend from Camp Kassai in the hills with his men and terrorise the population.[1501] According to witnesses, the well-equipped Seleka intimidated residents, firing their weapons in the air in 'a show of force', shooting indiscriminately and using heavy weaponry against the civilian population.[1502] P-1524 observed that civilians were 'often struck by stray Seleka rounds'.[1503]

a. Killing

666. The Chamber received evidence that the Seleka killed numerous civilians and committed countless acts of violence against the civilian population following the takeover of Bangui.[1504] P-0100 recalled that 'Boy Rabe residents were disappearing all the time', noting that some bodies were discarded in the streets, while other people were never found.[1505]

667. P-0529 testified that at the start of the 'Seleka period' he witnessed, on two separate

[1497] P-1524: CAR-OTP-2062-0468, at 0475, para. 31. *See also* P-2042: CAR-OTP-2074-0002, at 0007, para. 23.
[1498] P-2087: CAR-OTP-2074-2965, at 2979-2980, paras 77-79. P-2087 recalled that the Seleka forced their way into his home, pointed a gun at him, and stabbed him in the arm, knee and collarbone with a knife, twisting the blade and telling P-2087 that if he did not tell them where the FACA were, he would know what fate awaited him.
[1499] P-1313: CAR-OTP-2038-0098, at 0100-0101, para. 17; P-0100: CAR-OTP-2027-2535, at 2540, para. 28; P-0547: T-012, pp. 46-47; P-2251: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-044-CONF-ENG, p. 29; P-1339: T-131, pp. 10, 15-16.
[1500] P-2337: CAR-OTP-2104-0411, at 0414, para. 18; P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-057, p. 25; P-0884: CAR-OTP-2072-1616, at 1641.
[1501] P-1289: CAR-OTP-2053-0359, at 0363, para. 23.
[1502] P-1339: T-131, p. 15; P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-057, p. 25; P-1970: CAR-OTP-2087-9396, at 9404-9405, para. 36; P-2042: CAR-OTP-2074-0002, at 0006, paras 21-22; P-0884: CAR-OTP-2072-1616, at 1641; P-0435: CAR-OTP-2017-0036, at 0061, para. 148; P-0100: CAR-OTP-2027-2535, at 2540, 2553, paras 27, 110. *See* above paras 628-629. *See also* P-3047: CAR-OTP-2130-6904, at 6906, para. 14; P-1523: CAR-OTP-2134-2637, at 2639, para. 15.
[1503] P-1524: CAR-OTP-2062-0468, at 0489, para. 106.
[1504] *See generally* P-1297: CAR-OTP-2039-0167, at 0181, para. 96; P-0100: CAR-OTP-2027-2535, at 2539-2540, paras 23, 28; P-1313: CAR-OTP-2038-0098, at 0100-0101, para. 17; P-0291: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-052-ENG, pp. 5-6.
[1505] P-0100: CAR-OTP-2027-2535, at 2541, 2557, paras 34, 134.

occasions, Seleka members shoot dead two men wearing T-shirts depicting Bozizé.[1506] He also stated that in or around November 2013, he saw the Seleka stop a young man in the street, accuse him of being a member of the FACA and kill him.[1507] P-0100 testified that [REDACTED] the Seleka looted the home of a boy scout instructor and then shot and killed him because they saw a picture of him in a khaki scout uniform and believed he was a militant.[1508] Benjamin Mallo, P-0884 and P-0349 gave evidence that the Seleka shot dead Modeste Bria, a high ranking magistrate of the appeals court.[1509] P-1524 recalled witnessing the Seleka shoot and kill a street merchant,[1510] a Gbaya student who was climbing the wall of a monastery seeking refuge[1511] and another student as he ran from the Seleka.[1512] P-1524 gave evidence that the Seleka also killed women, stating that he was informed that they abducted and subsequently killed the daughter of a community judge, shot dead a woman while she held her baby and beat to death the wife of a police auxiliary.[1513]

668. Multiple witnesses testified that throughout the Seleka regime in 2013, a number of male bodies were found in the Oubangui River, near the Hotel Oubangui.[1514] P-1808, [REDACTED], recalled [REDACTED] bodies that had no eyes, had their throats slit and had stab wounds in the back.[1515] He stated that other bodies had no wounds, but had their hands and feet bound, which he deduced suggested they had been thrown into the water

[1506] P-0529: CAR-OTP-2051-0159, at 0168, paras 53-54.
[1507] P-0529: CAR-OTP-2051-0159, at 0168, para. 55.
[1508] P-0100: CAR-OTP-2027-2535, at 2559, paras 144-145. P-0100 testified that the [REDACTED] was killed a few days later by Colonel Kondo's men at the Old Post of Communications: P-0100: CAR-OTP-2027-2535, at 2559, paras 145-146.
[1509] P-0884: T-076, p. 42; P-0349: CAR-OTP-2075-0812, at 0827, paras 78-79. Benjamin Mallo testified that the Seleka targeted Modeste Bria because he was part of a national investigation commission and was in possession of files relating to exactions and abuse committed by the Seleka: P-0338: T-018, pp. 56-57.
[1510] P-1524: CAR-OTP-2062-0468, at 0482, para. 71.
[1511] P-1524: CAR-OTP-2062-0468, at 0482, para. 69. P-1524 also recalled burying the body of a man called [REDACTED], noting that eyewitnesses told him the Seleka killed him: P-1524: CAR-OTP-2062-0468, at 0482, para. 72.
[1512] P-1524 testified that the student's name was [REDACTED] and that he was killed by Colonel Kondo and his men: P-1524: CAR-OTP-2062-0468, at 0481, paras 66-67.
[1513] P-1524: CAR-OTP-2062-0468, at 0484-0485, paras 79-81, 83-84.
[1514] P-2328: CAR-OTP-2099-0165, at 0221, para. 297, draft translation: CAR-OTP-00000147, at 000057, para. 297 (stating that he received intelligence that Arda's men were responsible for killing these men). Several witnesses testified that they heard that the Seleka also killed people at Camp de Roux and threw their bodies in the river: P-0882: CAR-OTP-2032-0654, at 0669, paras 99-100; P-2478: CAR-OTP-2107-8835, at 8847, para. 46; P-1967: CAR-OTP-2069-0498, at 0529, 0536, paras 141, 171-172. *See also* P-2179: CAR-OTP-2088-2250, at 2265-2266, para. 79; P-0358: CAR-OTP-2043-0433, at 0448, para. 105; P-1808: CAR-OTP-00036277, at 00005-00006, paras 17, 24.
[1515] P-1808: CAR-OTP-00036277, at 00005, para. 20.

alive,[1516] noting that some bodies had rocks tied to them to make them sink.[1517] P-1808, who was frequently in the area around Hotel Oubangui at the time, stated that he would see bodies appear in the Oubangui River '[t]hroughout the Seleka regime in 2013' and '[w]hen the Seleka left, there were no more bodies in the river'.[1518] Jean-Jacques Demafouth stated that, according to intelligence he received, these persons had been killed by General Arda's men (who were stationed at Camp de Roux).[1519]

669. P-0100 and P-1297 testified that they heard [REDACTED] that Colonel Kondo who was based at the Lycée Boganda and the Old Post of Communications across the road would detain and kill people and dump their bodies in the surrounding area.[1520] P-2042 believed that Colonel Kondo was part of the group of Moussa Assimeh.[1521] P-1524 recalled seeing two persons detained at the entrance to the old post office and the next day saw their bodies with bullet wounds dumped on the road nearby.[1522] Various witnesses recalled Colonel Kondo making public statements to the effect that he considered a chicken to be more valuable than a human.[1523] According to P-2087, after the attack by Ngaikosset's men and on the day of Michel Djotodia's inauguration on 18 August 2013, Colonel Kondo came to the Boy Rabe market and stated that 'the lizards [would] be confused with the trees' if the people who fired the weapons did not bring them back.[1524] P-2087 stated that this was a Central African saying, [REDACTED] to mean that civilians would be attacked along with the military and that if they were still there when they came back to Boy Rabe, they would die.[1525]

[1516] P-1808: CAR-OTP-00036277, at 00005, paras 19, 21. *See also* P-0358: CAR-OTP-2043-0433, at 0448, para. 105.
[1517] P-1808: CAR-OTP-00036277, at 00005, para. 20.
[1518] P-1808: CAR-OTP-00036277, at 00005, 00007, paras 17, 37.
[1519] P-2328: CAR-OTP-2099-0165, at 0221, para. 297, draft translation: CAR-OTP-00000147, at 000057, para. 297. The Chamber notes that this is consistent with the evidence it received regarding the killing of the men who were taken from a minibus at PK9. *See* below paras 767, 741-744. *See also* P-0787: CAR-OTP-2036-0410, at 0433, para. 105.
[1520] P-0100: CAR-OTP-2027-2535, at 2557, para. 134; P-1297: CAR-OTP-2039-0167, at 0171-0172, para. 31. *See also* P-0100: CAR-OTP-2027-2535, at 2557-2559, paras 136, 145-146.
[1521] P-2042: CAR-OTP-2074-0002, at 0007, para. 25; P-1825: CAR-OTP-2079-0315, at 0322, para. 41
[1522] P-1524: CAR-OTP-2062-0468, at 0474, para. 29.
[1523] *See* P-1825: CAR-OTP-2079-0315, at 0322, para. 40; P-1524: CAR-OTP-2062-0468, at 0482, para. 68; P-1297: CAR-OTP-2039-0167, at 0171, para. 29.
[1524] P-2087: CAR-OTP-2074-2965, at 2971-2972, paras 40-43. P-2087 also testified that earlier in the morning of the inauguration, a Seleka member who lived in Boy Rabe (P-2087: CAR-OTP-2074-2965, at 2968, para. 18) came to the market and warned people that 'because of the guns last night you will get into trouble' and he would not be able to come there to help them: P-2087: CAR-OTP-2074-2965, at 2971, para. 39.
[1525] P-2087: CAR-OTP-2074-2965, at 2972, para. 44. The Chamber notes that P-0547 made reference to a similar expression when discussing the indiscriminate targeting of individuals during the attack on Boy Rabe. *See* P-0547: T-012, p. 20.

b. Rape

670. Several witnesses testified that throughout 2013, Seleka members raped women and girls, including in the 4th and 7th arrondissements during large-scale operations.[1526] P-1524 testified that he was informed of at least two rapes involving male victims in Boy Rabe.[1527]

671. The Chamber notes in this regard P-1524's testimony that rape was generally perpetrated indoors.[1528] In addition, the Chamber received evidence showing that, in the Central African context, rape is often not reported as survivors of rape are sometimes subjected to unwarranted stigma within their communities and that these societal attitudes led some survivors to experience feelings of shame.[1529] The Chamber underlines that survivors of rape bear no responsibility whatsoever for the crimes committed against them and that societal prejudices against survivors are unjust and may compound the harm suffered by these individuals. Having regard to the evidence before it, including evidence provided by *chefs de quartiers*, to whom such rapes were sometimes reported, the Chamber has no doubt that rape was one of the ways in which the Seleka attacked the targeted population and that it was more widespread than the evidence suggested.

c. Looting

672. The Chamber received evidence that Seleka looted homes, stealing residents' savings, livestock and belongings, including refrigerators, mattresses, televisions and other valuable goods.[1530] Several witnesses testified that the Seleka also stole vehicles and motorbikes.[1531] P-1563 testified that the Seleka at the Lycée Boganda stopped and

[1526] P-1524: CAR-OTP-2062-0468, at 0483-0484, paras 76-78, referring to [REDACTED], CAR-OTP-2062-0495; P-0881: CAR-OTP-2032-0682, at 0691, paras 59-60; P-0100: CAR-OTP-2027-2535, at 2541, para. 34; P-1313: CAR-OTP-2038-0098, at 0105, para. 56; P-0358: CAR-OTP-2043-0433, at 0441-0442, para. 59. *See* below paras 718-719.
[1527] P-1524: CAR-OTP-2062-0468, at 0483, para. 76.
[1528] P-1524: CAR-OTP-2062-0468, at 0483-0484, para. 76.
[1529] P-1313: CAR-OTP-2038-0098, at 0103, 0105 paras 35, 56; P-0100: CAR-OTP-2027-2535, at 2545, para. 56; P-1277: CAR-OTP-2051-0966, at 0973, para. 34.
[1530] P-1297: CAR-OTP-2039-0167, at 0181, para. 96; P-2386: CAR-OTP-2135-2792, at 2795, para. 17; P-1524: CAR-OTP-2062-0468, at 0475, 0476-0477, 0485, paras 31, 40, 85; P-1524: T-057, pp. 14-15; P-0119: T-084, pp. 30-31; P-1429: CAR-OTP-2049-0166, at 0170, para. 18; P-3047: CAR-OTP-2130-6904, at 6906, para. 14; P-0547: T-015, pp. 43-44; P-1264: T-098, p. 36; P-1825: CAR-OTP-2079-0315, at 0320, para. 28. *See also* P-3047: CAR-OTP-2130-6904, at 6907, para. 17.
[1531] P-0100: CAR-OTP-2027-2535, at 2541, para. 34; P-0547: T-015, pp. 43-44; P-1524: CAR-OTP-2062-0468, at 0475, para. 31; P-0338: T-017, p. 56; P-1825: CAR-OTP-2079-0315, at 0320, para. 28; P-0358: CAR-OTP-

searched passers-by, stealing anything of value and if they resisted, they would tie them in the *arbatachar* manner.[1532] P-1563 also testified that the Seleka stored goods looted during the Seleka's operations in Boy Rabe in the Lycée Boganda and that the Seleka leader would help himself to some goods and left the rest to his group.[1533]

673. Witnesses testified that Seleka members threatened, mistreated, raped and killed civilians as they looted.[1534] For example, [REDACTED] testified that Seleka members entered his home [REDACTED], threatened to kill him if he did not give them money and 'fired shots all around', as a result of which he was injured from shrapnel.[1535] P-0349 stated that Arda and his men abducted [REDACTED], looted his home and tied him in the *arbatachar* manner.[1536] [REDACTED] similarly recalled that Seleka members looting Ngaïssona's house tied his guard up under a tree using the *arbatachar* method.[1537] P-1524 testified that Seleka members took a local mechanic at gunpoint and forced him to break down doors, including those of his neighbours, and to help them carry looted goods, recalling that when he was unable to break a door they would beat him.[1538]

674. Several witnesses testified regarding the involvement of senior Seleka leaders in the looting operations. For example, with respect to Ngaïssona's property, [REDACTED] stated that Rakiss 'orchestrated' the looting.[1539] A number of witnesses testified that Nouradine Adam was present on occasions when they saw Seleka members looting.[1540] P-0119 testified that she saw Michel Djotodia order the Seleka to open and empty a container on Ngaïssona's property.[1541]

675. The Chamber received evidence that much of the looted property was taken to the Seleka

2043-0433, at 0443, para. 71; P-0435: CAR-OTP-2017-0036, at 0047, para. 65. Addendum to P-0435's prior recorded testimony, CAR-OTP-00000620, at 000002.
[1532] P-1563: T-116, pp. 18-20. *See also* P-1297: CAR-OTP-2039-0167, at 0171 to 0172, para. 31; P-0100: CAR-OTP-2027-2535, at 2557-2559, paras 134, 136, 145-146.
[1533] P-1563: T-116, pp. 32-35.
[1534] P-2042 testified that the Seleka 'would loot and kill without mercy': P-2042: CAR-OTP-2074-0002, at 0006, para. 21. *See* above para. 668.
[1535] [REDACTED].
[1536] P-0349: CAR-OTP-2075-0812, at 0827, para. 80.
[1537] [REDACTED].
[1538] P-1524: CAR-OTP-2062-0468, at 0485, para. 85.
[1539] [REDACTED].
[1540] P-0100: CAR-OTP-2027-2535, at 2555, para. 119; [REDACTED]. *See also* P-0119: T-083, pp. 9-10.
[1541] P-0119 testified that Michel Djotodia had received information that there was a container with weapons at Ngaïssona's property and ordered that the containers be opened. P-0119 stated that Djotodia was angry to discover that they contained office furniture, which he ordered should be taken to the presidency for use by the administration: P-0119: T-083, pp. 10-11.

base at Sapeurs-Pompiers.[1542] Jean-Jacques Demafouth stated that Moussa Assimeh would steal vehicles belonging to people and the authorities and kept them at his camp.[1543] P-0100 testified that General Moussa Assimeh recognised one of the [REDACTED] because he used to sell merchandise in Darfur and Assimeh told him that had he known that he was [REDACTED], he would not have looted it.[1544] Nicolas Tiangaye stated that Moussa Assimeh was forced to leave CAR with other Sudanese mercenaries at the end of 2013.[1545] P-1967 testified that, before Moussa Assimeh left Bangui, Michel Djotodia held a ceremony in Camp de Roux for him and awarded him a medal.[1546]

676. [REDACTED] stated that the Ministry of Public Security received *laissez-passer* requests for stolen vehicles that would enable them to travel freely abroad to places such as Chad or Cameroon, or through check-points.[1547] [REDACTED] stated that the 'vehicles were often stripped of their licence plates and the new owners had no official papers, however Nouradine would still issue them with a *laissez passer*' stamped and signed by him personally.[1548] [REDACTED] stated that [REDACTED] with these vehicles to obtain a *laissez-passer*, [REDACTED] and that the practice stopped after Nouradine Adam left the Ministry.[1549]

d. Detention and mistreatment

(i) General information

677. The evidence shows that the Seleka apprehended and then detained, mistreated and killed multiple residents of Bangui.[1550] Witnesses gave evidence that the Seleka rounded up

[1542] P-1524: CAR-OTP-2062-0468, at 0485, para. 87; P-1524: T-057, pp. 28-29. P-2042 testified that Moussa controlled Boy Rabe and Fouh: P-2042: CAR-OTP-2074-0002, at 0008, para. 27.
[1543] P-2328: CAR-OTP-2099-0165, at 0222, para. 308, draft translation: CAR-OTP-00000147, at 000058, para. 308; P-2328: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-046-CONF-ENG, p. 53. *See also* P-0358: CAR-OTP-2043-0433, at 0449, paras 113-114.
[1544] P-0100: CAR-OTP-2027-2535, at 2555, para. 123.
[1545] P-0291: CAR-OTP-2034-0104, at 0119, para. 95.
[1546] P-1967: CAR-OTP-2069-0498, at 0573, referring to photographs of the ceremony, CAR-OTP-2069-2166 to CAR-OTP-2069-2214. *See, in particular*, photographs, CAR-OTP-2069-2179, CAR-OTP-2069-2180, CAR-OTP-2069-2181. The individual shown being awarded a medal in these photographs was identified as Moussa Assimeh: P-2105: T-025, pp. 38-39, referring to annotated photograph, CAR-REG-0002-0052; P-2573: T-091, pp. 39-40, referring to photograph, CAR-OTP-2069-2180.
[1547] [REDACTED].
[1548] [REDACTED].
[1549] [REDACTED], CAR-OTP-00000620, at 000002.
[1550] *See, for example*, P-0100: CAR-OTP-2027-2535, at 2541, para. 34.

men from the streets[1551] and from their homes[1552] and workplaces,[1553] and carried out 'illegal arrests'.[1554] According to witness accounts, the Seleka also abducted some women.[1555]

678. Witnesses testified that the Seleka detained the men at several locations throughout Bangui, including at the OCRB,[1556] Camp de Roux,[1557] Camp Kassai,[1558] CEDAD,[1559] SERD/SRI,[1560] Ngaragba prison,[1561] Camp Béal[1562] and Base 124.[1563]

679. P-1420 also recalled that persons who were stopped and detained as they passed the Lycée Boganda were also detained at Base 124 under the control of Colonel Hissene.[1564] P-1420 testified that Alkhatim and Moussa Assimeh detained people and extorted money from them at Camp BSS and Sapeurs-Pompiers,[1565] while P-1429 and P-1762 described their experiences of being detained with other persons in [REDACTED] containers in [REDACTED].[1566] P-1429 testified that [REDACTED] came to visit [REDACTED] during the three days he was detained at the camp and that anyone visiting the camp could see the detained persons in the containers as their faces were visible from the outside.[1567] The UNHCHR September 2013 report described visits of its fact-finding mission to the OCRB and SRI sometime between 20 June and 11 July 2013. It noted that penitentiary authorities failed to provide registration records of the detainees 'or to respond to basic due process enquiries' and that the detainees interviewed stated that they had not been informed of the charges at the time of their arrest or brought before any competent legal

[1551] *See, for example*, P-2692: CAR-OTP-2125-0922, at 0924, paras 12-13; P-0662: CAR-OTP-2099-0336, at 0343-0344, paras 29-30; P-1180: CAR-OTP-2043-0483, at 0487, paras 28-30; P-1297: CAR-OTP-2039-0167, at 0172, paras 32-33; P-1743: T-086, p. 26.
[1552] *See, for example*, P-1524: CAR-OTP-2062-0468, at 0480-0481, para. 64.
[1553] *See, for example*, P-0664: T-100, p. 8.
[1554] *See, for example*, P-0884: T-076, pp. 43-44; P-1313: CAR-OTP-2038-0098, at 0100-0101, para. 17.
[1555] P-1524: CAR-OTP-2062-0468, at 0484, paras 79-80. *See* below paras 1497-1503, 1506.
[1556] *See* below section IV B 1.
[1557] P-0884: T-076, pp. 43-44; P-1967: CAR-OTP-2069-0498, at 0535, para. 169; P-1420: CAR-OTP-2040-0811, at 0829, paras 110-111; P-0547: T-013, p. 44. *See* above paras 631, 957-958, 961-964, 1037-1043 (factual findings), 740-742, 1280-1281, 1284-1287, 1509-1528 (evidentiary analysis).
[1558] *See* below paras 943, 1229-1230.
[1559] *See* below paras 688, 690-694.
[1560] P-0834: CAR-OTP-2048-0310, at 0317-0318, paras 40-42, 47, 49; P-1420: CAR-OTP-2040-0811, at 0824, at para. 81.
[1561] *See* below paras 970, 1305, 1376.
[1562] *See* below paras 961, 1280.
[1563] P-1420: CAR-OTP-2040-0811, at 0825, para. 83.
[1564] P-1420: CAR-OTP-2040-0811, at 0834, para. 141.
[1565] P-1420: CAR-OTP-2040-0811, at 0827-0828, paras 98-100, 102-103.
[1566] P-1429: CAR-OTP-2049-0166, at 0172, paras 34-36; P-1762: CAR-OTP-2073-0568, at 0575-0577, paras 38-52.
[1567] P-1429: CAR-OTP-2049-0166, at 0173, para. 41.

authority.[1568]

680. According to witness accounts, the Seleka interrogated, mistreated and killed multiple men who were detained at some of these detention facilities.[1569] For example, P-0834, who was detained in a windowless, overcrowded cell at the SERD/SRI between approximately April and June 2013,[1570] testified that he witnessed the Seleka shoot dead a Muslim Bozizé supporter inside his cell.[1571] P-0834 stated that on another occasion, he observed the Seleka kick a Christian detainee in the face, beat him and put a bag over his head and a rope around his neck, which they used to strangle him to death.[1572] P-0834 further testified that he saw the Seleka stab and kick two men, who he learned were FACA members, in the SERD/SRI compound, following which a man, who he later learned was Nouradine Adam, fired his pistol twice at each of the men, before the bodies were placed in sacks.[1573] Multiple witnesses recalled that detainees at various detention sites maintained by the Seleka were tied in the *arbatachar* manner and/or severely beaten.[1574]

681. P-0547 recalled seeing people kneeling in rows in front of Michel Djotodia in Camp de Roux and Michel Djotodia interrogating a boy about his ethnicity.[1575] P-0547 stated that when the boy indicated that he was a [REDACTED] from [REDACTED], Michel Djotodia said, '[s]o you're the one with Bozizé […]' and hit him with a *massette* before the boy was put into a sack and beaten with rifle buts.[1576] A number of witnesses also indicated that prisoners were detained at the OCRB and Camp de Roux at the behest of

[1568] UNHCHR Report September 2013, CAR-OTP-2001-0172, at 0184, para. 59.
[1569] P-2692 testified that he was tied up in the *arbatachar* manner, hit on the side of the head and had sharp bricks thrown at him at Camp Kassai, s*ee* below para. 1230. P-1180 and P-2263 testified that they were mistreated at Camp Béal and Camp de Roux, *see* below paras 1270, 1275, 1280-1281, 1286. P-0291: CAR-OTP-2034-0104, at 0119, para. 96. *See* below paras 740-742, 748, 970, 1040, 1304, 1515-1518.
[1570] P-0834 further testified that it was very hot inside the cell, there wasn't enough room for everyone to sit down, there was only a barrel as a makeshift toilet and they were given limited food and water: P-0834: CAR-OTP-2048-0310, at 0318-0319, paras 47, 49, 54.
[1571] P-0834: CAR-OTP-2048-0310, at 0320-0321, paras 62-63, 66.
[1572] P-0834: CAR-OTP-2048-0310, at 0320, para. 64. P-0834 further testified that detainees who were removed from his cell never came back, noting that a Seleka member [REDACTED] told him that when he saw someone leave the prison 'that meant they were going to be killed': P-0834: CAR-OTP-2048-0310, at 0319, para. 51.
[1573] P-0834: CAR-OTP-2048-0328, at 0331-0333, para. 16.
[1574] *See* below paras 1230 (Incident C), 1515-1518 (Incident Q).
[1575] P-0547: T-014, pp. 16, 18-19, 26-27, 29, referring to photograph, CAR-OTP-2018-0443.
[1576] A *massette* is a sledgehammer: P-0547: T-014, pp. 17-18, 26-27, 29, referring to photograph, CAR-OTP-2018-0443.

Michel Djotodia.[1577]

682. The Chamber received evidence that members of the Seleka also extorted money from Bangui residents for the release of their detained family members.[1578] For example, P-1420 confirmed that Colonel Abdel Kader detained Christians 'in horrible conditions' at the SERD and would not release them until they paid him a sum of money.[1579] P-1420 further testified that General Alkhatim extorted money from both Christians and Muslims for the release of detainees from the BSS and Sapeurs-Pompiers, noting 'it was a business for him'.[1580] He stated that at Base 124, Colonels Hissene and Mahmoud would similarly extort money from the relatives of detainees, recalling that the detainees whose families could not pay the ransom were killed.[1581]

(ii) OCRB

683. The evidence regarding the operations of the OCRB is set out in detail below. In this section, the Chamber includes evidence relevant to the departure of the Seleka from the OCRB as relevant to the factual findings above.

684. The Chamber notes that, as set out below, Michel Djotodia appointed Josué Binoua as Minister of Internal Security, replacing Nouradine Adam on 22 August 2013.[1582] Benjamin Mallo recalled a meeting organised at the Directorate General of the police with the OCRB Seleka leaders, including Mr Said, Nouradine Adam, General Rakiss and Tahir, as well as Minister Binoua and Michel Djotodia, to discuss the dismantling of the Seleka base at the OCRB.[1583]

685. There is evidence that Michel Djotodia subsequently convened all the OCRB Seleka

[1577] P-0338: T-018, pp. 13-15; P-0338: T-019, p. 47; P-2239: CAR-OTP-2104-0918, at 0927, paras 41-42; P-2241: CAR-OTP-2092-3851, at 3870, para. 95; P-1180: CAR-OTP-2043-0483, at 0496-0497, paras 95-96; P-2263: CAR-OTP-2089-1229, at 1235, paras 40-41; P-2263: CAR-OTP-2091-3074, at 3076, para. 12.
[1578] *See generally* P-1420: CAR-OTP-2040-0811, at 1819, 1822, 0824-0825, 0827, paras 46, 61, 81, 83, 99-100; P-0881: CAR-OTP-2032-0682, at 0691, para. 58. With respect to those detained at Base 124, P-1420 testified that the detainees whose families could not pay the ransom were killed, noting that they would be tied in the *arbatachar* manner until they swelled up and died and their bodies would then be thrown in the river near the Hotel Oubangui: P-1420: CAR-OTP-2040-0811, at 0824, para. 84; P-2478: CAR-OTP-2107-8835, at 8841, para. 21; P-0338: T-018, pp. 59-60.
[1579] P-1420 added that Colonel Abdel Kader 'would receive complaints from Muslim merchants who wanted to take advantage of the reversal in power and discrimination' and would detain 'mainly Christian merchants' until they paid him and the Muslim complainant sums of money: P-1420: CAR-OTP-2040-0811, at 0824, at para. 81.
[1580] P-1420: CAR-OTP-2040-0811, at 0822, 0827, paras 61, 98-100.
[1581] P-1420: CAR-OTP-2040-0811, at 0825, at paras 83-84.
[1582] *See* below paras 808-810. [REDACTED] P-1737: T-044, p. 63.
[1583] P-0338: T-018, pp. 30-31. Benjamin Mallo recounted that Moussa Assimeh was also present at this meeting: P-0338: T-018, p. 32.

members and the police officials and asked the Seleka to remove themselves from the OCRB so that the police could return to work there,[1584] which was followed by a ceremony on 30 August 2013 at the Directorate General of the Police to mark the departure of Seleka members from the OCRB.[1585] In the photographs of this ceremony,[1586] witnesses have recognised Michel Djotodia,[1587] Mr Said,[1588] Josué

[1584] [REDACTED], referring to photograph of the OCRB closing ceremony, CAR-OTP-2069-3227; P-1737: T-044, p. 64. P-0338: T-018, p. 20; P-1967: CAR-OTP-2069-0498 at 0582.

[1585] P-1967: CAR-OTP-2069-0498 at 0582. [REDACTED]; [REDACTED]. The Chamber received photographs and videos of the ceremony, which show the following people attending Michel Djotodia, Mr Said, Josué Binoua. *See* photographs, CAR-OTP-2069-3222, CAR-OTP-2069-3223, CAR-OTP-2069-3224, CAR-OTP-2069-3225, CAR-OTP-2069-3226, CAR-OTP-2069-3227, CAR-OTP-2069-3228, CAR-OTP-2069-3229, CAR-OTP-2069-3230, CAR-OTP-2069-3231, CAR-OTP-2069-3232, CAR-OTP-2069-3233, CAR-OTP-2069-3234, CAR-OTP-2069-3235, CAR-OTP-2069-3236, CAR-OTP-2069-3239, CAR-OTP-2069-3241, CAR-OTP-2069-3242, CAR-OTP-2069-3243. Mr Said also appears in a photograph, CAR-OTP-2069-3245. Rakiss appears in photographs, CAR-OTP-2069-3225, CAR-OTP-2069-3226 (the person in the grey suit shaking hands with Michel Djotodia), CAR-OTP-2069-3245. Moussa Assimeh appears in photographs, CAR-OTP-2069-3239, CAR-OTP-2094-1940, CAR-OTP-2069-3242, CAR-OTP-2069-3243. Benjamin Mallo appears in photographs, CAR-OTP-2069-3226, CAR-OTP-2069-3245 (the person wearing the black uniform). Certain other police officers, who worked at the OCRB at the time, appear in photographs, CAR-OTP-2069-3228, CAR-OTP-2069-3230, CAR-OTP-2069-3231, CAR-OTP-2069-3232, CAR-OTP-2069-3245. *See* [REDACTED]; P-1737: T-044, pp. 65-68, referring to annotated photographs, [REDACTED]; P-1737: T-045, pp. 3-4, referring to annotated photograph, [REDACTED]; P-2105: T-024, pp. 61, 64-67, [REDACTED]; P-2105: T-025, p. 3, [REDACTED]; P-2105: T-027, pp. 65, referring to photograph, CAR-OTP-2069-3222; P-2563: T-114, pp. 7-10, referring to annotated photographs, CAR-REG-0002-0138, CAR-REG-0002-0140. *See also* video of OCRB closing ceremony, CAR-OTP-2069-3237; P-1967: CAR-OTP-2069-0498 at 0041.

[1586] [REDACTED] photographs, CAR-OTP-2069-3222, CAR-OTP-2069-3223, CAR-OTP-2069-3224, CAR-OTP-2069-3226, CAR-OTP-2069-3227, CAR-OTP-2069-3228, CAR-OTP-2069-3229, CAR-OTP-2069-3230, CAR-OTP-2069-3231, CAR-OTP-2069-3232, CAR-OTP-2069-3233, CAR-OTP-2069-3234, CAR-OTP-2069-3235, CAR-OTP-2069-3236, CAR-OTP-2069-3238, CAR-OTP-2069-3239, CAR-OTP-2069-3240, CAR-OTP-2069-3241, CAR-OTP-2069-3242, CAR-OTP-2069-3243, CAR-OTP-2069-3244, CAR-OTP-2069-3245, CAR-OTP-2069-3246; *See also* video of OCRB closing ceremony, CAR-OTP-2069-3237; P-1967: CAR-OTP-2069-0498 at 0041; P-1737: T-044, pp. 64-68, referring to photographs from OCRB closing ceremony, CAR-OTP-2069-3225 ([REDACTED]), CAR-OTP-2069-3226 ([REDACTED]), CAR-OTP-2069-3227 ([REDACTED]). P-2105: T-027, pp. 65, referring to photograph, CAR-OTP-2069-3222.

[1587] Photographs, CAR-OTP-2069-3222, CAR-OTP-2069-3223, CAR-OTP-2069-3224, CAR-OTP-2069-3225, CAR-OTP-2069-3226, CAR-OTP-2069-3227, CAR-OTP-2069-3228, CAR-OTP-2069-3229, CAR-OTP-2069-3230, CAR-OTP-2069-3231, CAR-OTP-2069-3232, CAR-OTP-2069-3233, CAR-OTP-2069-3234, CAR-OTP-2069-3235, CAR-OTP-2069-3236, CAR-OTP-2069-3239, CAR-OTP-2069-3241, CAR-OTP-2069-3242, CAR-OTP-2069-3243.

[1588] Photographs, CAR-OTP-2069-3226, CAR-OTP-2069-3227, CAR-OTP-2069-3245; addendum to P-2478's prior recorded testimony, CAR-OTP-00000461, 000003; P-2105: T-024, pp. 64-65, referring to [REDACTED]; P-1737: T-044, pp. 66-68, referring to [REDACTED]; P-1737: T-045, pp. 3-4, referring to [REDACTED]; P-2563: T-114, p. 7, referring to [REDACTED].

Binoua[1589] Rakis[1590] and Moussa Assimeh,[1591] Benjamin Mallo[1592] and other police officers, who worked at the OCRB at the time.[1593] These photographs also show about 50 OCRB Seleka members standing in columns wearing military camouflage uniforms with some of them wearing blue brassards.[1594]

686. There is evidence that the Seleka leaders, including Mr Said, demanded compensation for the Seleka members in order to leave the OCRB,[1595] and that Michel Djotodia paid five million CFA,[1596] which was distributed amongst the OCRB Seleka members.[1597] [REDACTED] testified that in order to receive the money, the OCRB Seleka had to return their weapons.[1598] Benjamin Mallo stated that Mr Said gave him a share of the money too and the following day, the OCRB was 'completely deserted'.[1599]

(iii)Detention in CEDAD

(a) Establishment and functioning of CEDAD

687. The Chamber received evidence that CEDAD, which was based behind the Air France

[1589] Photographs, CAR-OTP-2069-3234, CAR-OTP-2069-3236, CAR-OTP-2069-3241, CAR-OTP-2069-3244; P-1167: T-035, pp. 47, 53-54, referring to photographs of OCRB closing ceremony, CAR-OTP-2069-3222 ([REDACTED]); CAR-OTP-2094-1937 ([REDACTED]); P-2478: T-034, p. 20, referring to photograph, CAR-OTP-2094-1921.
[1590] Photographs, CAR-OTP-2069-3225, CAR-OTP-2069-3226 (the person in the grey suit shaking hands with Michel Djotodia), CAR-OTP-2069-3245; P-2105: T-024, p. 61, referring to [REDACTED]; P-1737: T-044, pp. 65-66, referring to [REDACTED].
[1591] Photograph, CAR-OTP-2069-3239, CAR-OTP-2094-1940, CAR-OTP-2069-3242, CAR-OTP-2069-3243.
[1592] Photograph, CAR-OTP-2069-3226, CAR-OTP-2069-3245 (the person wearing the black uniform); addendum to P-2478's prior recorded testimony, CAR-OTP-00000461, 000003; P-1737: T-044, pp. 66-68, referring to [REDACTED].
[1593] Photographs, CAR-OTP-2069-3228, CAR-OTP-2069-3230, CAR-OTP-2069-3231, CAR-OTP-2069-3232, CAR-OTP-2069-3245; [REDACTED]; [REDACTED].
[1594] Photographs, CAR-OTP-2069-3238, CAR-OTP-2069-3240, CAR-OTP-2094-1939, CAR-OTP-2094-1941. The Chamber also notes that Mr Said and Tahir also appear to be wearing the same blue brassards in one photograph, CAR-OTP-2069-3245. A Seleka witness stated that the OCRB Seleka members were standing in three columns during the ceremony, adding that one of the columns was for those who were being disarmed. *See* [REDACTED], referring to photographs, CAR-OTP-2094-1939 ([REDACTED]), CAR-OTP-2094-1940 ([REDACTED]), CAR-OTP-2094-1941 ([REDACTED]). *See also* [REDACTED].
[1595] P-0338: T-018, p. 31; P-1967: CAR-OTP-2069-0498 at 0582; [REDACTED].
[1596] P-0338: T-018, pp. 31-32; [REDACTED]; [REDACTED].
[1597] [REDACTED]; [REDACTED]; [REDACTED].
[1598] [REDACTED]. *See also* [REDACTED].
[1599] P-0338: T-18, pp. 32-33.

building in Bangui, [1600] operated as a secret detention centre[1601] by late August 2013, following the closure of the OCRB,[1602] under the direction of Nouradine Adam and his deputy, Al Bachar.[1603] Jean-Claude Sophil testified that CEDAD had the powers to do everything necessary to protect the Seleka grip on power and the Seleka needed a heavy hand to manage the situation following the coup and increasing discontent among the population.[1604]

688. According to [REDACTED], [REDACTED] and [REDACTED], Seleka members were deployed to CEDAD, including several members who had worked at the OCRB prior to the Seleka's departure therefrom, on or about 30 August 2013.[1605] [REDACTED] noted that police and gendarmes also worked within CEDAD.[1606]

(b) Arrest and Detention at CEDAD

689. [REDACTED], Nouradine Adam would order security officers working at CEDAD to arrest persons perceived to oppose the Seleka regime and bring them to CEDAD to be

[1600] P-2328: CAR-OTP-2099-0165, at 0217, para. 268, draft translation: CAR-OTP-00000147, at 000053, para. 268; P-1004: CAR-OTP-2043-0536, at 0543, para. 54; P-2105: T-025, pp. 8, 25; P-1420: CAR-OTP-2040-0811, at 0825, para. 86; P-1289: CAR-OTP-2053-0359, at 0377, para. 105; P-0291: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-052, p. 5. Jean-Jacques Demafouth further stated that CEDAD was later relocated to the President's Office, behind the government Secretariat General building. *See* P-2328: CAR-OTP-2099-0165, at 0217, para. 268, draft translation: CAR-OTP-00000147, at 000053, para. 268.
[1601] P-2105: T-025, pp. 8, 10, 13; P-1004: CAR-OTP-2043-0536, at 0543-0544, paras 54, 59; P-0664: T-101, p. 28. *See* below para. 692.
[1602] *See* above para. 686.
[1603] Documentary evidence indicates that Michel Djotodia established CEDAD by presidential order, dated 25 May 2013: presidential order, CAR-OTP-2005-0375. The evidence before the Chamber indicates that Michel Djotodia appointed Al Bachar as the Deputy Director of CEDAD on 7 June 2013: presidential order, CAR-OTP-2005-0328; P-1004: CAR-OTP-2043-0536, at 0544, para. 58; [REDACTED], referring to list of Seleka at CEDAD, CAR-OTP-2023-0646 and photograph, CAR-OTP-2069-0671 ([REDACTED]) and Nouradine Adam as Director General of CEDAD on 22 August 2013: presidential order, CAR-OTP-2005-0368; P-0349: CAR-OTP-2075-0812, at 0823, para. 58; P-0291: CAR-OTP-2034-0104, at 0117, 0119, paras 79, 97; P-0291: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-052, p. 5; P-0291: T-060, p. 13; P-0664: T-100, p. 12; P-0435: CAR-OTP-2017-0036, at 0064, para. 167; P-2105: T-025, p. 8. Multiple witnesses testified Nouradine Adam was in charge of CEDAD: P-0291: T-062, p. 60; P-1004: CAR-OTP-2043-0536, at 0544, para. 56; P-2328: CAR-OTP-2099-0165, at 0217, para. 268, draft translation: CAR-OTP-00000147, at 000053, para. 268; P-1289: CAR-OTP-2053-0359, at 0377, para. 105; P-2280: CAR-OTP-2135-3728, at 3737. *See also* P-0349: CAR-OTP-2075-0812, at 0823, para. 59. *See also* below paras 810, 1111.
[1604] P-0787: CAR-OTP-2036-0410, at 0432, para. 102.
[1605] [REDACTED]; P-1420: CAR-OTP-2040-0811, at 0825-0826, paras 86, 94-95. As to the Defence's objections to [REDACTED] and [REDACTED], both of whom were Seleka, the Chamber notes that both witnesses testified that they [REDACTED]: [REDACTED]. However, the Chamber recalls that [REDACTED] testified that he [REDACTED] and the Chamber is satisfied that, by virtue of his presence there, and his role and contacts, he was privy to information regarding CEDAD. Similarly, the Chamber considers that [REDACTED] was able to make observations about the persons present [REDACTED] (*contra* Defence Closing Brief, ICC-01/14-01/21-1039-Red, paras [REDACTED]).
[1606] [REDACTED].

detained.[1607] [REDACTED] observed that 'the Seleka were only arresting Christians, which made it obvious that this was not about security work but rather about discriminating against one part of the population'.[1608] He stated that at CEDAD, 'the detainees had three things in common. They were Central Africans, Christians and males'.[1609] P-0435 believed that members of the Gbaya ethnic group, in particular, were targeted because they were perceived to be Bozizé loyalists.[1610] The witness observed that 'it was known that civilians would be taken to CEDAD' and noted that 'some civilians were arrested and taken just because they looked fit and might have been in the military'.[1611] [REDACTED] and [REDACTED], however, also recalled the detention of several Muslims[1612] and Seleka members.[1613] [REDACTED] observed that there was a 'Seleka punishment cell used for disciplinary purposes'.[1614]

690. According to [REDACTED], those detained at CEDAD also included: members of Bozizé's Presidential Guard, a FACA Adjutant, a Gendarme Adjutant, a pastor (who was wearing a T-shirt with a picture of François Bozizé), a police officer, a travelling salesman and a tailor.[1615] [REDACTED] recalled the detention of a national army officer, a brigade commander, a soldier, a police officer and two customs officers, together with various others, including a student, a taxi driver, a farmer, a trader and 11 people arrested from a lorry requisitioned by a refugee agency to transport supplies.[1616]

691. Several witnesses gave evidence that those who had been arrested were hooded during their transfer to CEDAD,[1617] and were driven around *en route* to CEDAD until they lost their bearings.[1618]

692. [REDACTED], a [REDACTED] ethnicity,[1619] and [REDACTED], a [REDACTED]

[1607] [REDACTED]. *See also* [REDACTED]; P-0291: T-060, p. 13; P-2328: CAR-OTP-2099-0165, at 0218, para. 275, draft translation: CAR-OTP-00000147, at 000054, para. 275; P-0664: T-100, p. 8.
[1608] [REDACTED].
[1609] [REDACTED].
[1610] P-0435: CAR-OTP-2017-0036, at 0065, para. 174.
[1611] P-0435: CAR-OTP-2017-0036, at 0065, para. 174.
[1612] [REDACTED].
[1613] *See* below paras 819-823. *See also* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 154.
[1614] [REDACTED].
[1615] [REDACTED]. *See also* P-1420: CAR-OTP-2040-0811, at 0826, para. 94.
[1616] [REDACTED]. P-0435 also recalled the arrest and detention of a policeman: P-0435: CAR-OTP-2017-0036, at 0064-0065, paras 171, 175.
[1617] [REDACTED] recalled that his hood was laced with a strong spice, which made it hard to breathe: [REDACTED]. *See also* P-2105: T-025, p. 10; P-1004: CAR-OTP-2043-0536, at 0544, para. 61.
[1618] [REDACTED]. *See also* P-2105: T-025, p. 10; P-2105: T-028, p. 44.
[1619] [REDACTED].

ethnicity,[1620] both gave evidence that they were detained at CEDAD for about [REDACTED] from around mid-September 2013.[1621] [REDACTED] and [REDACTED] testified that Seleka members, some of whom were armed, forcibly arrested them,[1622] with [REDACTED] noting that [REDACTED] arrived at the scene shortly after his arrest.[1623] Both [REDACTED] and [REDACTED] stated that they were not told why they had been arrested or where they were going.[1624]

693. [REDACTED] and [REDACTED] recalled that they were detained in a cell at CEDAD that was often crowded[1625] and did not have any windows.[1626] [REDACTED] commented that he was kept in complete darkness for the duration of his detention.[1627] [REDACTED] and [REDACTED] stated that the only fresh air came from a small gap under the door and that it was difficult to breathe at times.[1628] According to these witnesses, they were handcuffed together with other detainees for weeks,[1629] while others had their hands tied behind their backs.[1630] [REDACTED] and [REDACTED] stated that the detainees were

[1620] [REDACTED]. As to the Defence's objections regarding purported inconsistencies between [REDACTED], and his in-court testimony in relation to the reasons for his arrest and references to [REDACTED], the Chamber considers, given the nature of the correspondence, which is not testimonial in nature, that it cannot be expected to be exhaustive. In this regard, the Chamber accepts the witness's explanations regarding the preparation of his prior recorded testimony which was taken in a more exhaustive manner in 2016, and notes that [REDACTED] is referenced therein (*see* [REDACTED]). In light of the foregoing, the Chamber considers it immaterial that [REDACTED]'s correspondence does not refer to [REDACTED]. In relation to the alleged discrepancies in [REDACTED]'s evidence regarding [REDACTED], the Chamber finds that the witness was not inconsistent, noting that [REDACTED] clarified [REDACTED], explaining that [REDACTED] (*see* [REDACTED]). The Chamber further refers to its discussion regarding descriptions of familial relationships in CAR, *see* above para. 75). In any event, the Chamber considers that nothing significant turns upon this (*contra* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 150, Defence Closing Brief, ICC-01/14-01/21-1039-Conf, para. 150).
[1621] [REDACTED].
[1622] [REDACTED] testified he was arrested on the street: [REDACTED]. [REDACTED] testified he was arrested at work: [REDACTED]. [REDACTED] testified that [REDACTED] told him that [REDACTED] was arrested by the Seleka and held in a container behind the Air France agency in Bangui: [REDACTED].
[1623] [REDACTED] testified that [REDACTED]'s vehicle pulled up next to the vehicle in which [REDACTED] was being held and [REDACTED] inquired as to the whereabouts of [REDACTED]: P-0662: CAR-OTP-2099-0336, at 0345, para. 32.
[1624] [REDACTED].
[1625] [REDACTED] stated that when he arrived at CEDAD (on or about [REDACTED] September 2013), he was [REDACTED] in the cell [REDACTED], noting that at one point there were 48 people in the cell: [REDACTED]. [REDACTED] stated that the number of detainees in his cell fluctuated from about 18 to 50, noting that the detainees had to sleep on each other. [REDACTED].
[1626] [REDACTED]. *See also* P-1004: CAR-OTP-2043-0536, at 0544, para. 61. *See also* P-3112's CEDAD Reports, CAR-OTP-2058-0435, CAR-OTP-2118-3978.
[1627] [REDACTED].
[1628] [REDACTED].
[1629] [REDACTED].
[1630] [REDACTED].

given limited food and water[1631] and that there was no toilet in the cell.[1632] [REDACTED] stated that they were not given any documents in relation to their detention, nor access to lawyers.[1633]

694. P-1004 testified that the Seleka beat detainees at CEDAD.[1634] [REDACTED] and [REDACTED] both testified that the Seleka hooded them and interrogated them.[1635] [REDACTED], whose brothers and cousin were FACA,[1636] recalled that the Seleka accused him of being a Presidential Guard and asked him about the location of weapons,[1637] while [REDACTED] stated that he was questioned about, *inter alia*, the occupation of the runway at the airport, purchasing weapons and his contact with François Bozizé.[1638] Both [REDACTED] and [REDACTED] testified that the Seleka beat and whipped them, with [REDACTED] noting that the whip [REDACTED], which tore the skin.[1639] [REDACTED] testified that 'they wanted us to confess by force',[1640] and stated that 'the torture was systematic at CEDAD' and gradually increased over a number of days.[1641]

695. According to [REDACTED], other detainees experienced similar interrogations and torture.[1642] [REDACTED] testified that beatings were inflicted in the yard, in front of the detention rooms or at the back of the property.[1643] He observed that the Seleka guards carried whips made of used car tyre rubber and would use them for beating the detainees.[1644] [REDACTED] and [REDACTED] stated that the detainees did not receive any medical treatment for the injuries they sustained.[1645]

[1631] [REDACTED]. [REDACTED] recalled that the detainees were fed once a day, usually manioc or rice: [REDACTED].
[1632] [REDACTED] and [REDACTED] both testified that after a period of time, because [REDACTED], a 20 litre can was provided for use as a toilet. [REDACTED].
[1633] [REDACTED].
[1634] P-1004: CAR-OTP-2043-0536, at 0545, paras 66, 68.
[1635] [REDACTED].
[1636] [REDACTED].
[1637] [REDACTED].
[1638] [REDACTED].
[1639] [REDACTED].
[1640] [REDACTED] noted that when he refused to confess to whatever the Seleka wanted him to say, he was beaten and whipped: [REDACTED].
[1641] [REDACTED].
[1642] [REDACTED].
[1643] While [REDACTED] stated that he was standing guard at the front gate and the beatings were out of his line of sight, he said that he heard the command and the crying of detainees: [REDACTED].
[1644] [REDACTED].
[1645] [REDACTED].

696. [REDACTED] testified that at least one Muslim detainee and one Seleka member were killed at CEDAD.[1646] [REDACTED] recalled that the Seleka dumped the bodies in his cell and later instructed the detainees to load the bodies onto the back of a pick up.[1647]

(c) Perpetrators present at CEDAD

697. [REDACTED] testified that [REDACTED] and Mahamat Saleh were amongst those involved in his interrogation and mistreatment.[1648] He stated that [REDACTED] ordered the 'torturers' to [REDACTED].[1649]

698. As to evidence adduced by the Prosecution with respect to Mr Said's alleged role and presence at CEDAD, and actions associated therewith, the Chamber recalls that the Pre-Trial Chamber declined to confirm any charges against Mr Said relating to the alleged events at CEDAD.[1650] The Chamber further recalls the Prosecution's submission that '[a]t no point has the Prosecution suggested to reintroduce unconfirmed charges related to the CEDAD incidents against Mr Said'.[1651] Accordingly, the Chamber will not consider any evidence pertaining to Mr Said in the context of CEDAD.

ii. Specific events

a. Operation in the 7th arrondissement on or about 13 April 2013

699. The Chamber received evidence from multiple witnesses that the Seleka launched an operation in the 7th arrondissement on or about 13 April 2013.[1652] According to P-0882 and P-0312, the Seleka entered Ngaragba and Kassai by force and proceeded to

[1646] [REDACTED] stated that a Muslim detainee, Djido, was shot while trying to escape from CEDAD: [REDACTED]. [REDACTED] also noted that sometimes Seleka removed detainees from his cell during the night, observing that Seleka and other detainees told him that these detainees who were taken from the cell were killed. *See* [REDACTED]. *See* below paras 819, 821-822.
[1647] [REDACTED].
[1648] [REDACTED] testified that during his first interrogation, [REDACTED] questioned him: [REDACTED]. [REDACTED] clarified his prior evidence, noting that it was 'Mahamat Saleh', not 'Mahamat Seleman' who was the 'number 2' at CEDAD: [REDACTED]. [REDACTED] also stated that the Seleka told him that he could not be questioned until [REDACTED]: [REDACTED].
[1649] [REDACTED].
[1650] Confirmation of Charges Decision, ICC-01/14-01/21-218-Red, p. 48, para. 153.
[1651] Prosecution Response to Defence Request to Reject Prosecution Trial Brief, ICC-01/14-01/21-427, para. 9; Decision on Request to Reject Prosecution Trial Brief, ICC-01/14-01/21-437, para. 21.
[1652] P-0881: CAR-OTP-2032-0682, at 1691, para. 61; P-0882: CAR-OTP-2032-0654, at 0660, para. 33; P-2386: CAR-OTP-2135-2792, at 2798, para. 36. P-1808 recalled that the Seleka 'attacked' the 7th arrondissement '*en masse*' on 14 April 2013: P-1808: CAR-OTP-00036277, at 00004, para. 12. However, the Chamber recalls that during his testimony, P-1808 had some difficulty recalling dates: *see, for example*, P-1808: T-086, p. 15.

Ouango.[1653] P-2386 testified that the Seleka 'attacked' the 7th arrondissement at around 10:00.[1654] He noted that there had been 'no warning of the attack', recalling that he first learnt of it when he saw people running, including a FACA member 'wearing nothing but his underwear and still covered in soap'.[1655] P-0882, P-0881, P-2386 and P-0312 gave evidence that during the course of these events, the Seleka shot at and arrested residents of the 7th arrondissement.[1656]

700. According to P-0882, P-2386 and P-0881, some members of the population hid from the Seleka, while others attempted to flee.[1657] P-2386 observed, however, that the Seleka were occupying the 'port' and noted that the area around the French Ambassador's residence was blocked by armed Seleka members and green BG75 vehicles, from which he concluded that the road away from Bangui was blocked.[1658] P-0882 heard that the Seleka continued shooting at the fleeing population and, in their desperation, some people jumped into the river, attempting to escape.[1659] P-0882 testified that the Seleka continued shooting at people in the water, noting that many drowned because they did not know how to swim.[1660]

701. Witness accounts suggest that the 'attack' itself lasted less than a day, although there is evidence indicating that the Seleka remained a presence in the 7th arrondissement in the aftermath thereof.[1661] The Chamber received evidence that during and immediately following the events described above, the Seleka conducted house-to-house searches and otherwise targeted individuals in the 7th arrondissement who they believed were

[1653] P-0882: CAR-OTP-2032-0654, at 0660-0661, paras 33-34, 38; P-0312: T-097, p. 20. *See also* P-0881: CAR-OTP-2032-0682, at 0692, para. 68.
[1654] P-2386: CAR-OTP-2135-2792, at 2798, para. 36. While P-1808 thought that the attack had occurred on 14 April 2013, he also recalled that it started at 09:00 or 10:00. *See* P-1808: CAR-OTP-00036277, at 00004, para. 12.
[1655] P-2386: CAR-OTP-2135-2792, at 2798, para. 36.
[1656] P-0882: CAR-OTP-2032-0654, at 0660-0663, paras 34-35, 37, 39-42, 48, 55; P-0881: CAR-OTP-2032-0682, at 0691, para. 61; P-2386: CAR-OTP-2135-2792, at 2799-2801, paras, 41, 48-49, 51-52, 57; P-0312: T-097, pp. 16-18. Although P-1808 did not see any crimes being committed, he heard that the Seleka were using large-calibre weapons and recalled that 'there was a lot of Kalashnikov fire in the neighbourhood'. *See* P-1808: CAR-OTP-00036277, at 00004, para. 12.
[1657] P-0882: CAR-OTP-2032-0654, at 0660-0662, paras 33-34, 38, 41-42, 48; P-2386: CAR-OTP-2135-2792, at 2798-2800, paras 36-37, 41, 47; P-0881: CAR-OTP-2032-0682, at 0692, paras 67, 69.
[1658] P-2386: CAR-OTP-2135-2792, at 2798-2799, paras 37, 39, 41.
[1659] P-0882: CAR-OTP-2032-0654, at 0661, para. 42.
[1660] P-0882: CAR-OTP-2032-0654, at 0661, paras 42-43.
[1661] P-1808: CAR-OTP-00036277, at 00004, paras 14-15; P-0881: CAR-OTP-2032-0682, at 0683, para. 76. *See also* P-0882: CAR-OTP-2032-0654, at 0661-0662, paras 44-46, 48.

associated with the FACA.[1662] P-0882 gave evidence that the Seleka used an *indicateur* to locate their targets.[1663] According to P-1808 and P-0881, the Seleka also directed residents to identify houses in their neighbourhoods belonging to the FACA and to reveal the location where FACA soldiers were hiding.[1664]

702. The evidence received by the Chamber indicates that the Seleka killed at least 15 people during the operation in the 7th arrondissement.[1665] According to witnesses, amongst those killed were a four year old boy,[1666] a pastor called Siogoui,[1667] a mentally handicapped person,[1668] at least one woman,[1669] a teacher and his brother,[1670] and several young men.

703. As to the young men killed, P-2386 and P-0882 gave eyewitness accounts that the Seleka shot dead, *inter alia*, a young man named [REDACTED] in quartier Sao.[1671] P-2386 testified that the Seleka who shot [REDACTED] were wearing military uniforms and were heavily armed, including with an AK-47 and a rocket launcher.[1672] P-2386 also recalled that as he hid some 50 metres from the control post where the Seleka were stationed at Port Sao, he witnessed members of the Seleka kill 15 to 20 men wearing civilian clothing.[1673] According to P-2386, the Seleka, who were wearing camouflage

[1662] P-1808: CAR-OTP-00036277, at 00004, paras 13, 15; P-0881: CAR-OTP-2032-0682, at 0692-0693, paras 69, 72-74; P-2386: CAR-OTP-2135-2792, at 2798, 2800, paras 36, 44, 46. *See also* above para. 665.
[1663] P-0882: CAR-OTP-2032-0654, at 0660, paras 36-37.
[1664] P-1808: CAR-OTP-00036277, at 00004, para. 15; P-0881: CAR-OTP-2032-0682, at 0693, paras 74-75.
[1665] P-0882: CAR-OTP-2032-0654, at 0660-0662, paras 33-34, 38-40, 42-43, 48; P-0881: CAR-OTP-2032-0682, at 0691, para. 61; P-1808: CAR-OTP-00036277, at 00004, para. 14.
[1666] P-0881 testified that [REDACTED] was killed by a stray bullet: P-0881: CAR-OTP-2032-0682, at 0692, para. 65.
[1667] P-0882: CAR-OTP-2032-0654, at 0660, para. 36; addendum to P-0882's prior recorded statement, CAR-OTP-00036892, at 0002.
[1668] P-0882: CAR-OTP-2032-0654, at 0660, para. 36.
[1669] P-2386: CAR-OTP-2135-2792, at 2801, para. 57 (referring to a woman from the neighbourhood called '[REDACTED]'); P-0312: T-097, pp. 13, 19, 21 (referring to a woman named '[REDACTED]'). *See also* P-1808: CAR-OTP-00036277, at 00004, para. 14 (referring to a woman killed in the Ouango area).
[1670] P-1808: CAR-OTP-00036277, at 00004, para. 14.
[1671] P-2386 testified that he witnessed the Seleka shoot [REDACTED], in the back, and later attended his funeral. P-0882 testified that he witnessed the Seleka shooting two men, one of whom was called '[REDACTED]', 'in the front of their bodies' and noted that he later buried [REDACTED]. The discrepancies in the accounts provided by P-2386 and P-0882 leave the Chamber in doubt as to whether the two witnesses are referring to the same victim(s). While the Chamber does not consider the witnesses' accounts to be corroborative, it is satisfied on the basis of the evidence that at least one individual called [REDACTED] was killed in quartier Sao. *See* P-2386: CAR-OTP-2135-2792, at 2800, 2803, paras 47-50, 51-56, 65-68, referring to photograph of [REDACTED] at his funeral, CAR-OTP-2135-2818; P-0882: CAR-OTP-2032-0654, at 0660-0661, paras 34, 38-40 (referring to the killing of three men, one of whom was called [REDACTED]). *Contra* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 94.
[1672] P-2386: CAR-OTP-2135-2792, at 2800, para. 48. P-0882 testified that the Seleka members he observed shooting the young men were wearing green military uniforms and were carrying Kalashnikovs: P-0882: CAR-OTP-2032-0654, at 0661, para. 40.
[1673] P-2386: CAR-OTP-2135-2792, at 2799, paras 39-41; addendum to P-2386's prior recorded statement, CAR-OTP-00037529, at 0002.

military uniforms and were carrying AK-47s, made the men kneel in two lines with their heads down and their backs towards the Seleka and proceeded to shoot the men.[1674] P-2386 stated that he learnt that the Seleka also killed [REDACTED].[1675]

704. Multiple witnesses testified that the Seleka also caused serious injury to several residents of the 7th arrondissement, including the mayor thereof, Joseph Tagbale, who was shot in the neck.[1676] P-0882 heard that *en route* to Joseph Tagbale's house, the Seleka also shot the son of the mayor's neighbour in the leg.[1677]

705. [REDACTED] gave consistent evidence that during the operation, the Seleka also arrested and detained many young men and children as young as fourteen or fifteen years old (collectively, 'youths').[1678] According to these witnesses, the Seleka took the youths to Camp Kassai and then transferred them to the SERD, with [REDACTED] noting that this was ordered by the Seleka leadership.[1679] [REDACTED] testified that the Seleka at the SERD demanded ransom money from the youths' parents to secure their release, which [REDACTED] described as 'part of their extortion scheme'.[1680] According to the witnesses, Michel Djotodia subsequently met with the *Chefs de Quartiers* and gave one

[1674] P-2386: CAR-OTP-2135-2792, at 2799, paras 39-41.
[1675] P-2386: CAR-OTP-2135-2792, at 2798, 2800, 2803, paras 37, 51, 52-56, 65, 67-68, referring to photographs [REDACTED], CAR-OTP-2135-2819 and CAR-OTP-2135-2820. As to the discrepancy between P-2386's screening note (in which he stated [REDACTED] of [REDACTED]) and witness statement (in which he stated that he did not witness the killing of [REDACTED]), the Chamber found P-2386's explanation that the investigators might have misunderstood his (initial) response to be reasonable. The Defence argues that the names [REDACTED] do not appear on the lists of dead and wounded provided by P-0312: Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 95, referring to lists, CAR-OTP-2039-0351, CAR-OTP-2039-0353, CAR-OTP-2039-0354, CAR-OTP-2039-0355. These were submitted into evidence during the Prosecution's examination of P-0312: P-0312: T-097, pp. 20-25, 40-45, 58-59. P-0312 stated that he was provided with a list of 13 or 15 people who had been victimised that day by the Seleka: P-0312: T-097, pp. 20-22, referring to CAR-OTP-2039-0351. The witness identified three further lists of victims from the 7th Arrondissement that day, two of which he confirmed had been prepared by the Red Cross and one of which had been prepared by a president of the Red Cross local committee of the 7th arrondissement named Sao (who had been a municipal advisor): P-0312: T-097, pp. 23-24, referring to lists, CAR-OTP-2039-0353, CAR-OTP-2039-0354, CAR-OTP-2039-0355. The Chamber notes that the lists are handwritten and thus appear to be in draft form. It has not received information regarding the purpose for which these lists were compiled or the methodology employed. In these circumstances, and notwithstanding the fact that a number of the names of the lists correspond with other evidence regarding specific individuals, the Chamber is not satisfied as to the probative value of these lists and therefore does not rely on them for the purposes of its assessment of the evidence.
[1676] P-0881: CAR-OTP-2032-0682, at 0692, para. 68; P-0882: CAR-OTP-2032-0654, at 0660, para. 35; P-2386: CAR-OTP-2135-2792, at 2801, para. 57; P-0312: T-097, pp. 16-19, referring to photographs, CAR-OTP-2039-0336, CAR-OTP-2039-0339, CAR-OTP-2039-0342 (depicting P-0312's injury); P-1289: CAR-OTP-2053-0359, at 0363, para. 23.
[1677] P-0882: CAR-OTP-2032-0654, at 0660, para. 35.
[1678] [REDACTED].
[1679] [REDACTED]. [REDACTED] recalled that 10 young men were arrested and taken to the SERD: [REDACTED].
[1680] [REDACTED]. [REDACTED] noted that he was told that the family of one of the detainees paid to the Seleka a ransom of 400,000 CFA to secure the detainee's release: [REDACTED].

of them around 300,000 CFA to secure the release of the youths.[1681] [REDACTED] gave evidence that following the payment of the 'ransom' to the Seleka commander at the SERD, the youths were released on or about 17 April 2013.[1682] [REDACTED] heard from the parents of the kidnapped youths that they were beaten at Camp Kassai and were not given anything to eat.[1683]

706. The Chamber heard evidence that the Seleka looted people's houses in the aftermath of the operation. P-1808 testified that when two armed Seleka soldiers forcibly entered P-1808's house on the day of the 'attack' and accused him of being a FACA member, [REDACTED] gave the Seleka all the money they had in the house (15,000 CFA) and both his phones so that they would let P-1808 live.[1684] He also recalled that people were saying that the Seleka were looting everything they could and noted '[i]t was the innocent residents of the 7th arrondissement who paid the price for this operation'.[1685] P-0881 testified that the day after the operation, the Seleka went into [REDACTED]'s house and looted it, amongst others.[1686]

707. P-0881 stated that based on what he heard from others and his own observations, '[t]he Seleka militants involved in killings in Kassai and Ngaragba in early 2013 were the Seleka militants from Camp Kassai as well as Colonel Bouroumata's men'.[1687]

b. Operations in Boy Rabe

708. The Chamber received evidence of two significant operations in Boy Rabe which occurred on or about 14-16 April 2013 and 20 August 2013. The Chamber notes that in some instances it was not clear whether a witness was referring to the April or August

[1681] [REDACTED].
[1682] [REDACTED].
[1683] [REDACTED]. The Chamber notes that [REDACTED] also testified that when the Chefs attended the SERD prior to the release of the youths, a Seleka commander brought out some of the youths. [REDACTED] recalled that the youths looked pale, dirty and smelled bad, but when questioned by the commander, through an interpreter, they denied that they had been mistreated or had not eaten. [REDACTED] observed that while the youths gave the impression that they were fine, he could tell from their condition that they did not have a pleasant stay and had been mistreated. He noted that below their superficial smiles 'in front of the Seleka' they appeared fearful. *See* [REDACTED].
[1684] P-1808: CAR-OTP-00036277, at 00004, paras 13, 15.
[1685] P-1808: CAR-OTP-00036277, at 00004, para. 15.
[1686] P-0881: CAR-OTP-2032-0682, at 0693, paras 72-74. P-0881 also testified that the Seleka asked [REDACTED] for money: P-0881: CAR-OTP-2032-0682, at 0693, para. 75.
[1687] The Chamber notes that P-0881 makes reference to killings more generally in 'early 2013', which the Chamber understands from his statement, when read as a whole, to include the attack on the 7th arrondissement. P-0881: CAR-OTP-2032-0682, at 0692, para. 66. *See also* P-0882: CAR-OTP-2032-0654, at 0660, para. 33.

operation in Boy Rabe.[1688] In such instances, the Chamber has addressed the evidence in the evidentiary analysis where most appropriate. The Chamber does not consider ambiguities in the witnesses' recollection of the dates of the events to be significant and is satisfied, having regard to the consistency of the witnesses' accounts of the surrounding circumstances, that the events described in this subsection happened during one of the operations in April and August 2013.

(i) Events prior to the operations

709. P-0100, [REDACTED],[1689] testified that, prior to the April or August operation in Boy Rabe,[1690] Michel Djotodia and Nouradine Adam made separate statements in Sango on the radio in which they condemned an attack on Seleka guards that had taken place and 'mentioned Boy Rabe and its residents in a way that led [him] and others to panic about an impending attack'.[1691] P-0100 testified that Michel Djotodia and Nouradine Adam 'used proverbs to warn [them] of what was yet to come as a response for the show of armed resistance', reciting 'something along the lines of an old African proverb that says: when a child misbehaves during a gathering, trying to spoil the mood, one does not discipline him in front of the guests but rather punishes him in the most severe way, after the guests have left'.[1692] P-2087 also recalled Michel Djotodia speaking on the radio about the fact that there were FACA soldiers in Boy Rabe fighting the Seleka.[1693] According to P-2087, Michel Djotodia stated that the Seleka were 'just looking for bad people', begged the listeners 'to let it go' and warned that if they continued, they belonged to Bozizé and war would come to them.[1694]

[1688] *See* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 118.
[1689] P-0100: CAR-OTP-2027-2535, at 2538-2539, paras 19, 22-23, [REDACTED].
[1690] The Chamber notes that it is unclear from P-0100's testimony whether the statements he described hearing were made prior to the April operation or the August operation in Boy Rabe. P-0100 testified that the statements on the radio were made following the attack by Captain Ngaikosset and his Presidential Guards (which took place prior to the August attack on Boy Rabe) but P-0100 states that this attack was an attempt to prevent Michel Djotodia's inauguration in April 2013: P-0100: CAR-OTP-2027-2535, at 2542, para. 39. Similarly, the reference in the content of the radio message to the attack on Seleka guards could refer to the killing of two Seleka members on 11 April 2013 prior to the April operation in Boy Rabe (*see* above para. 502) or to the attack by Captain Ngaikosset prior to the August operation in Boy Rabe (CAR-OTP-2027-2535, at 2542, para. 39, *see* below para. 726). The Chamber notes that P-0100 freely acknowledged that he sometimes mixed up the sequence of events due to the trauma he witnessed: P-0100: CAR-OTP-2027-2535, at 2539, para. 25. Based on this evidence, the Chamber cannot determine which operation in Boy Rabe these radio announcements preceded. Nonetheless, the Chamber is satisfied that threatening radio statements were made on the radio by Michel Djotodia and Nouradine Adam prior to one of the operations in Boy Rabe.
[1691] P-0100: CAR-OTP-2027-2535, at 2541-2542, para. 39.
[1692] P-0100: CAR-OTP-2027-2535, at 2542, para. 39.
[1693] P-2087: CAR-OTP-2074-2965, at 2973, para. 53.
[1694] P-2087: CAR-OTP-2074-2965, at 2973, para. 53.

710. [REDACTED] testified that, after such threatening messages were broadcast, a meeting took place between community representatives and Nouradine Adam's Chief of Staff,[1695] who warned them that a 'swift reaction was to come' and that they would 'burn and raze Boy Rabe for three days', with [REDACTED] remarking that the Chief of Staff indicated that he was 'speaking in the name of the President'.[1696]

711. [REDACTED] and [REDACTED] also provided accounts of Nouradine Adam visiting the *Chef de Quartie*r of one of the neighbourhoods of Boy Rabe and conveying threatening messages following protests against the detention of certain residents.[1697] [REDACTED] recalled that, on this occasion, Nouradine Adam told the *Chef de Quartier* to tell his people that it was known that they were 'very stubborn' and that they should stop their behaviour or one day he would burn the neighbourhood.[1698] P-1970 recalled that he heard Nouradine Adam speaking to his men in Arabic in a visibly annoyed manner as he was coming out of the Directorate-General building [REDACTED], and was later told by one of the men that he had said 'the people of Boy-Rabe are very stubborn and one day he will burn them'.[1699] P-1970 recalled that this took place in the first few months after the Seleka took over Bangui.[1700]

(ii) Operation in Boy Rabe on or about 14-16 April 2013

(a) Unfolding of the operation

712. The Chamber received evidence from a number of witnesses that on or about 14 April 2013 the Seleka entered Boy Rabe.[1701] Several witnesses testified that the Seleka encircled Boy Rabe, blocking off the entry and exit points to the neighbourhood.[1702]

[1695] [REDACTED].
[1696] [REDACTED].
[1697] [REDACTED]. [REDACTED] does not explicitly say that Nouradine Adam threatened to burn Boy Rabe, saying only that '[h]e repeated the same thing I heard at the Town Hall meeting, [REDACTED].' Nonetheless, it is clear from [REDACTED] account of the interaction that Nouradine Adam's visit was an effort to intimidate and punish him for the protests of some of the residents of his neighbourhood based on a suspicion that the *Chef de Quartier* had been inciting people against the Seleka. Regarding the relevant neighbourhood, *see* [REDACTED].
[1698] [REDACTED].
[1699] P-1970: CAR-OTP-2087-9396, at 9404, para. 34.
[1700] P-1970: CAR-OTP-2087-9396, at 9404, para. 34.
[1701] P-0834: CAR-OTP-2048-0310, at 0314, para. 19; P-1524: CAR-OTP-2062-0468, at 0473, para. 27; [REDACTED]. The Chamber also notes that P-0342 testified that the Seleka 'attacked' Boy Rabe on a Sunday and 14 April 2013 was a Sunday. *See* P-0342: T-124, pp. 33, 36-37; P-1825: CAR-OTP-2079-0315, at 0317, para. 14.
[1702] P-0100: CAR-OTP-2027-2535, at 2543, para. 45; P-0834: CAR-OTP-2048-0310, at 0314, para. 21; P-1524: CAR-OTP-2062-0468, at 0473, paras 27, 29; [REDACTED].

P-1524 indicated that he saw the Seleka coming into Boy Rabe 'in the hundreds',[1703] with P-2563 stating that he 'only saw the Seleka, they were everywhere, everywhere in Boy Rabe'.[1704] Witnesses recalled that armed Seleka members were moving around in vehicles, many of which had heavy machine guns mounted on top, in a 'show of force' that P-1524 described as 'excessive for a residential area full of civilians'.[1705]

713. P-0119, P-1264, P-0834, P-2563, and P-0342 testified that the Seleka were shooting indiscriminately at people in Boy Rabe.[1706] P-0834 stated that, as a result, people were not able to flee.[1707] P-0100 testified that the Seleka kept Boy Rabe surrounded so that people could not escape or get to the hospital, noting that if they tried, they risked being arrested or killed.[1708] P-1524 explained also that those who tried to leave, including women and children, were ordered by the Seleka to go home.[1709]

714. P-1524 testified that he saw the Seleka fire at the electricity grid,[1710] with P-0100 confirming that the Seleka shut off electricity and water during the operation.[1711] P-0100 and P-0358 gave evidence that the Seleka prohibited ambulances from entering Boy Rabe.[1712]

715. Witnesses testified that the April operation in Boy Rabe lasted approximately three days.[1713]

(b) Crimes committed during the operation

716. The Chamber received evidence that multiple people were shot and killed by the Seleka

[1703] P-1524: CAR-OTP-2062-0468, at 0473, para. 28.
[1704] P-2563: T-114, p. 25.
[1705] P-0100: CAR-OTP-2027-2535, at 2543, para. 46; P-1264: T-098, pp. 9-10; P-1524: CAR-OTP-2062-0468, at 0473, para. 28. The Chamber also received evidence from P-0342 who noted that victims were injured after rockets were launched into Boy Rabe – *see* P-0342: T-124, pp. 37-38, [REDACTED]. *See also* P-0119: T-082, p. 19.
[1706] P-0119: T-082, pp. 29, 33; P-1264: T-098, p. 9; P-0834: CAR-OTP-2048-0310, at 0315, para. 24; P-2563: T-114, p. 22; P-0342: T-124, p. 33.
[1707] P-0834: CAR-OTP-2048-0310, at 0315, para. 24.
[1708] P-0100: CAR-OTP-2027-2535, at 2544, para. 54.
[1709] P-1524: CAR-OTP-2062-0468, at 0473, para. 27.
[1710] P-1524: CAR-OTP-2062-0468, at 0475-0476, para. 33.
[1711] P-0100: CAR-OTP-2027-2535, at 2562, para. 161.
[1712] P-0100: CAR-OTP-2027-2535, at 2545-2546, paras 61-62; P-0358: CAR-OTP-2043-0433, at 0441, para. 58.
[1713] P-0100: CAR-OTP-2027-2535, at 2543, para. 46; P-1277: CAR-OTP-2051-0966, at 0970-0971, para. 20; P-1524: CAR-OTP-2062-0468, at 0472, para. 26. The Chamber also notes that P-1264 testified that the Seleka remained in the locality for 'at least two weeks' after the attack, but were actually present in her house for '[REDACTED] days': P-1264, T-098, pp. 10, 15.

during the operation.[1714] For example, P-0100 testified that [REDACTED] was shot in the back.[1715] P-1825 gave evidence that he saw the Seleka shoot an individual who was hiding and ran from the Seleka,[1716] and another man, whom the Seleka killed after they found a poster of François Bozizé in the house where he was hiding.[1717] Multiple witnesses testified that the Seleka shot and killed a woman named Sandrine and her child.[1718] P-0100 testified that as they did not have access to the cemetery and were scared of being seen on the streets during those days, they would bury the dead where they found them or somewhere nearby.[1719]

717. The Chamber received evidence that the Seleka raped civilians during the April operation in Boy Rabe, with P-0100 testifying that he 'could hear the screams from the victims

[1714] P-2563: T-114, p. 25; P-0119: T-082, pp. 29-30. Although P-0119 indicates that the killings took place generally in March and April, the Chamber notes that P-0119 had an issue with dates and notes that, prior to giving this answer, the Prosecution referred the witness back to her earlier testimony where she discussed the April attack (*see* P-0119: T-082, p. 16); P-0100: CAR-OTP-2027-2535, at 2543, 2545, paras 47, 59-60; P-1264: T-098, p. 9; P-0342: T-124, p. 38, [REDACTED].
[1715] P-0100: CAR-OTP-2027-2535, at 2545, 2561, paras 59, 155.
[1716] P-1825: CAR-OTP-2079-0315, at 0321-0322, paras 35, 38.
[1717] P-1825: CAR-OTP-2079-0315, at 0322, para. 38.
[1718] [REDACTED], referring to photograph of victims, CAR-OTP-2032-0789; P-0100: CAR-OTP-2027-2535, at 2560-2561, para. 153. *See also* list of victims admitted to morgue at the Hôpital Communautaire prepared by [REDACTED] which notes 'Sandrine Pouningaola' was killed by gunshot in April 2013 ([REDACTED]). The Chamber notes that the Defence objected to the introduction of the two lists of victims admitted to morgue at the Hôpital Communautaire prepared by [REDACTED] (*see* [REDACTED]), noting that they are neither signed nor dated and [REDACTED] does not explain his methodology for their production. The Chamber notes that [REDACTED] stated that 'these were not comprehensive lists and [he] included only the cases that came to [his] attention' and that '[i]t was very busy at the time and [he] was not able to keep track of every single admission and its details'. Based on the foregoing, the Chamber does not consider the figures contained in the lists to be exhaustive. Nonetheless, the Chamber is satisfied that the lists were compiled based on information that came to [REDACTED] attention at the time and can be used to corroborate other evidence regarding the death of specific individuals. Accordingly, the Chamber finds that the list ([REDACTED]), corroborates the death of Sandrine. As regards other victims identified or the numbers of victims generally provided in the lists, the Chamber notes that is unclear whether those victims were victims of the Seleka specifically or injured in the course of the prior hostilities. [REDACTED] testified that most of the individuals on these lists were victimised by the Seleka militants: [REDACTED]. In the circumstances set out above, namely the non-exhaustive nature of the lists, the lack of any indication as to whether the victims listed were victims of the Seleka or the circumstances in which they were killed or injured, the Chamber is unable to rely on these documents more generally to establish that those mentioned therein were killed or injured by the Seleka.
[1719] P-0100: CAR-OTP-2027-2535, at 2543, para. 47.

who were raped'.[1720] Specifically, P-1313,[1721] P-1264[1722] and P-0834[1723] gave direct evidence regarding rapes they either personally suffered or witnessed. The evidence shows that the Seleka targeted P-1313 and P-0834 on the basis that they were perceived to be affiliated with François Bozizé in some way.[1724] In describing the impact of these crimes on her, P-1313 stated that she suffered from syphilis, pelvic pain and other symptoms as a result of the rapes they perpetrated, her husband left her and she has to look after her children alone in circumstances where the Seleka also stole her property and money and she lost her business.[1725] P-1313 stated that the Seleka ruined her life and she fears she may never be able to recover.[1726]

718. The Chamber heard evidence that the Seleka committed a number of violent acts against civilians during the April operation in Boy Rabe, with many receiving extensive

[1720] P-0100: CAR-OTP-2027-2535, at 0545, para. 56; P-1825: CAR-OTP-2079-0315, at 0321, 0324, paras 37, 48.
[1721] P-1313 testified that she was raped at gunpoint in her home by three Seleka members, who also looted her house: P-1313: CAR-OTP-2038-0098, at 0102-0103, paras 29-41. While the Chamber notes that P-1313 does not provide an exact date as to when the Seleka members raped her multiple times, the Chamber is satisfied, on the basis of her evidence, that these rapes occurred during the April assault on Boy Rabe or in that context. In this regard, the Chamber observes that P-1313 stated that not long after the Seleka arrived in Bangui (on 24 March 2013), there was an incident which caused her to flee to a different neighbourhood for five days before returning home. P-1313: CAR-OTP-2038-0098, at 0101-0102 paras 18, 25, 26. P-1313 explained that the Seleka members raped her when she returned and that many of her family members had fled because of the Seleka: P-1313: CAR-OTP-2038-0098, at 0102 para. 29. The Chamber also notes that a document from OJED indicates that P-1313's rape took place on 14 April 2013: OJED, CAR-OTP-2034-1324, at 1349.
[1722] P-1264 testified that three armed Seleka who stayed in her house for [REDACTED] days, raped her and made her 'do everything for them': P-1264: T-098, pp. 14-15. The Chamber notes that the Defence questioned P-1264 about the lack of medical documentation regarding her rape (*see* P-1264, T-098, pp. 31-32). Having regard to the explanations P-1264 provided about her medical treatment and to the prevailing circumstances during the period concerned, the Chamber considers that the lack of medical documentation does not undermine the reliability of her account. As to the Defence's assertion that it was 'foreign rogue individuals' who raped P-1264, the Chamber notes that P-1264 testified that 'everybody knew that they were Seleka who had entered the city and the neighbourhood' and P-1263 testified that there were no other armed groups in Boy Rabe at the time. The Chamber further recalls that witnesses testified the Seleka was a mixed group with people from CAR, the DRC, Chad and Sudan, amongst whom were people who only spoke Arabic: P-1264: T-098, p. 16; P-1263: T-105, p. 46. *See* above para. 405. *Contra* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 122.
[1723] P-0834 stated that armed Seleka [REDACTED] raped [REDACTED]. P-0834 testified that after the Seleka had finished raping [REDACTED], they shot and killed her – *see* P-0834: CAR-OTP-2048-0310, at 0315-0317, paras 27-38. The Chamber notes that the Defence questioned P-0834 [REDACTED] regarding the death of [REDACTED] and that in response to this question, P-0834 explained [REDACTED] he was severely traumatised [REDACTED]: P-0834: T-127, p. 21. Considering the prevailing circumstances during the period under consideration, the Chamber is satisfied with P-0834's explanation and finds that [REDACTED] does not undermine the credibility of his account.
[1724] P-1313: CAR-OTP-2038-0098, at 0102-0104, paras 31, 34, 43-44; P-0834: CAR-OTP-2048-0310, at 0315-0316, paras 29, 32. The Chamber notes that a similar inference could be drawn for P-1264. In this regard, while there is no explicit evidence to this effect, the Chamber recalls that P-1264 stated that when the Seleka members entered her house they asked her where her husband was and made P-1264 [REDACTED]. *See* P-1264: T-098, p. 14-15, 18. *See also* below paras 749-750, 752.
[1725] P-1313: CAR-OTP-2038-0098, 0106, paras 61-62.
[1726] P-1313: CAR-OTP-2038-0098, 0106, paras 61-62.

injuries.[1727] In this regard, P-0834 testified that [REDACTED] was being raped by the Seleka.[1728] [REDACTED], who was forced to assist the Seleka in loading looted goods onto Seleka vehicles,[1729] testified that he was threatened and mistreated[1730] and saw another man being severely beaten by the Seleka.[1731]

719. The Chamber also received evidence that on 14 April, the Seleka fired a rocket from Boy Rabe which fell on the *Église Fédération Membres-Frères* in Cité Jean XXIII, and killed and severely injured several people, including a number of children who had to have their legs amputated.[1732]

720. Multiple witnesses testified that the Seleka looted extensively in Boy Rabe during the April operation, going door to door, taking objects of value as well as subsistence goods, and loading them onto vehicles.[1733]

721. [REDACTED] testified that he was present with Nouradine Adam while the Seleka looted a former pro-Bozizé Minister's house in Boy Rabe a few days after the April operation.[1734]

(c) Perpetrators present during the operation

722. P-1825, a [REDACTED], who observed these events first-hand, testified that Colonel [REDACTED] was the chief of the Seleka who entered the house in which P-1825 was

[1727] [REDACTED].
[1728] P-0834: CAR-OTP-2048-0310, at 0316, paras 35-37 referring to photograph of victim, CAR-OTP-2029-0309, and photograph of victim, CAR-OTP-2029-0310.
[1729] [REDACTED].
[1730] [REDACTED].
[1731] [REDACTED].
[1732] P-1277: CAR-OTP-2051-0966, at 0971-0972, 0974, paras 24-26, 38. The Chamber notes that the Defence made submissions to the effect that P-1277's testimony is inconsistent with his previous screening note regarding the date of the shelling and the number of deaths (*see* Defence Response to the First 68(2)(b) Request, ICC-01/14-01/21-349-Red, para. 77). In respect of the difference in the number of deaths, the Chamber observes that P-1277 corrected the figures previously given in his prior recorded testimony and the Chamber does not consider this correction to be so significant that it would affect the credibility or reliability of his testimony (*see* P-1277: CAR-OTP-2051-0966, at 0972, para. 26). In respect of the date of the incident, the Chamber notes that the witness stated that this incident happened on a 'Sunday' and 14 April 2013 was a Sunday (*see* P-1277: CAR-OTP-2051-0966, at 0971, para. 24). Furthermore, the Chamber observes that the date of the shelling is consistent with the testimony provided by P-0342 and P-0119 (*see* P-0119: T-082, p. 19; P-0342: T-124, pp. 33, 37-38 [REDACTED]). *See also* P-0291: CAR-OTP-2034-0104, at 0119, para. 94.
[1733] P-0100: CAR-OTP-2027-2535, at 2544, paras 52-53; P-1825: CAR-OTP-2079-0315, at 0319-0320, 0322, 0324, paras 26, 28, 30, 39, 47; P-1313: CAR-OTP-2038-0098, at 0102, para. 28; P-0119: T-084, pp. 31-32; P-1264: T-098, pp. 14-15, 35-36. The Chamber understands from P-1264's description of events that she was referring to the April assault on Boy Rabe as she distinguishes between the Seleka entering Bangui and the Seleka entering Boy Rabe for the first time. *See* P-1264: T-098, pp. 8-10; P-0834: CAR-OTP-2048-0310, at 0317, para. 37.
[1734] [REDACTED].

hiding at the time.[1735] According to P-1825, when the Seleka found a FACA uniform in this house, Colonel [REDACTED] became angry and accused the persons present of being Bozizé supporters, stating that they were amongst those who had resisted the Seleka and shot at them when they entered Boy Rabe.[1736] P-1825 also testified that he saw General 'Kondo' at the Poungoulou market, speaking and gesturing to men who were looting the market around him.[1737] P-1524 provided evidence that General Dhaffane was present in Boy Rabe and took part in looting various properties along with his men.[1738]

723. A number of witnesses testified that Michel Djotodia and Nouradine Adam were present in Boy Rabe during the operation,[1739] and [REDACTED] testified that he went with Nouradine Adam to Boy Rabe shortly after these events because [REDACTED].[1740]

724. [REDACTED], a Seleka insider who testified that [REDACTED] during the April operation in Boy Rabe,[1741] stated that Nouradine Adam wanted to 'take control of the situation' and had discussions with some of those who were 'demonstrating against the behaviour of Seleka troops'.[1742] The Chamber observes, however, that there is no evidence that Nouradine Adam took any action to curtail the April operation, or made public statements of condemnation thereafter. Indeed, [REDACTED] stated that even after [REDACTED] the operation, other Seleka remained in Boy Rabe and he did not know 'what they stayed to do'.[1743] In this regard, the Chamber notes that [REDACTED] testified that the Seleka colonels were under Nouradine Adam's control.[1744]

(iii) Operation in Boy Rabe on or about 20 August 2013

725. The Chamber notes that a number of witnesses, specifically P-0349 and P-1524,[1745] could

[1735] P-1825: CAR-OTP-2079-0315, at 0318, para. 17.
[1736] P-1825: CAR-OTP-2079-0315, at 0318, para. 19.
[1737] P-1825: CAR-OTP-2079-0315, at 0322, paras 40, 42.
[1738] P-1524: CAR-OTP-2062-0468, at 0477-0479, paras 43-58. *See also* P-0119: T-082, pp. 31, 35.
[1739] P-1825: CAR-OTP-2079-0315, at 0323, para. 43; P-0100: CAR-OTP-2027-2535, at 2546, para. 67; P-1264: T-098, pp. 18-19. The Chamber also notes the evidence from P-0435 who stated that [REDACTED] after the April attack on Boy Rabe. *See* P-0435: CAR-OTP-2017-0036, at 0061, para. 147.
[1740] [REDACTED].
[1741] [REDACTED].
[1742] [REDACTED].
[1743] [REDACTED].
[1744] [REDACTED].
[1745] Specifically, P-0349 could not recall when the 'attack' he recounted took place. *See* P-0349: T-096, pp. 53-54. Similarly, P-1524 testified that he recalled seeing Michel Djotodia 'during one of the Seleka operations' but did not specify which one. *See* P-1524: CAR-OTP-2062-0468, at 0488, para. 98.

not recall when exactly certain events they witnessed took place. In this regard, the Chamber is satisfied, based on the context of their evidence, viewed in conjunction with other evidence that similarly describes the events unfolding in the month of August,[1746] that these witnesses described the operation in August. Similarly, P-0100 recalled a number of events which he indicated took place in April 2013, but it is clear, given that he discusses the inauguration of Michel Djotodia, that they in fact took place in August 2013.[1747]

(a) Planning and events preceding the August operation in Boy Rabe

726. Multiple witnesses testified that the night before Michel Djotodia's inauguration on 18 August 2013, several individuals fired heavy weapons from Boy Rabe at the Assemblée Nationale.[1748] P-1277 indicated that those who fired the shell were Bozizé's *ex-libérateurs*,[1749] with P-1524 and P-0547 noting that they were members of the former Presidential Guard.[1750] P-0547 testified that those who fired the heavy weapons were against the inauguration,[1751] and P-1825 similarly explained that people in Boy Rabe generally were against the inauguration because many in the area were supporters of François Bozizé.[1752]

727. P-1420 testified that, in response to this, the Seleka conducted an operation in Boy

[1746] In respect of P-0349, although he could not recall when the 'attack' he recounted took place, he indicated it was raining. Similarly, P-1524 explained that when he recalled seeing Michel Djotodia during one of the Seleka operations 'it was raining a bit that day'. The Chamber notes that several witnesses remarked on the rain or the fact that it rained all day when describing the events of 20 August 2013. *See, for example*, P-1424: CAR-OTP-2049-0198, at 0201, para. 16; P-1427: CAR-OTP-2051-0180, at 0183, para. 13; P-0547: T-012, p. 19. Accordingly, the Chamber is satisfied that the events described by P-0349 and P-1524 relate to the operation in Boy Rabe in August 2013.
[1747] P-0100 was witness to both April and August operations and acknowledged that his memory for dates is not very good and that he sometimes mixes up the sequence or timing of events due to the trauma that he has witnessed. The Chamber has carefully considered his evidence and delineated, taking into account the testimony of other witnesses, in conjunction with the context of what he describes, whether he describes something as occurring in April or August 2013.
[1748] P-1825: CAR-OTP-2079-0315, at 0324, para. 50; P-0547: T-012, pp. 14-17; P-1523: CAR-OTP-2134-2637, at 2640, para. 23; P-1277: CAR-OTP-2051-0966, at 0971, para. 21. The Chamber notes that P-1277 indicates that the shell was fired towards the Palais Présidentiel. The Chamber determines that this discrepancy is not significant, particularly given the fact that P-1277's evidence on this event is broadly speaking consistent with other witnesses. *See also* P-1524: CAR-OTP-2062-0468, at 0472, para. 26; P-2087: CAR-OTP-2074-2965, at 2970-2971, paras 34-38; P-2232: T-102, pp. 21, 24. The Chamber notes that P-2232 was unsure about the date of the attempt on Michel Djotodia's inauguration, but that he indicated that it 'might have been in April'. In light of the consistent evidence of other witnesses, the Chamber considers that P-2232 was mistaken as to the date and that the events he refers to took place in August 2013.
[1749] P-1277: CAR-OTP-2051-0966, at 0971, para. 21.
[1750] P-1524: CAR-OTP-2062-0468, at 0472, para. 26; P-0547: T-012, p. 15.
[1751] P-0547: T-012, pp. 14-16. *See also* P-2563: T-114, p. 23.
[1752] P-1825: CAR-OTP-2079-0315 at 0324, para. 50.

Rabe,[1753] with P-0547 explaining that it was to find former members of François Bozizé's Presidential Guard.[1754] [REDACTED] affirmed that he spoke to a Seleka member on 19 August 2013, the evening before the operation, who stated that they were about to 'penetrate into Boy Rabe' 'to find pro-Bozizé elements'.[1755]

728. [REDACTED] recalled in particular that Adam came to the OCRB at night on two or three occasions at the beginning of August to plan operations in Boy-Rabe.[1756] He stated that nearly all the Seleka would leave the following morning on their operations and would return in the following days 'with many looted objects, such as computers, televisions, telephones', which they stored in the camp.[1757] [REDACTED] indicated that Adam would not be with the Seleka when they returned but affirmed that [REDACTED] told him that Adam participated in these operations.[1758]

(b) Unfolding of the operation

729. The Chamber received evidence from multiple witnesses that the Seleka launched an operation in Boy Rabe on or about 20 August 2013.[1759] P-2087 testified that he saw Seleka members come from the direction of the Lycée Boganda, as well as the Hôpital de l'Amitié.[1760] P-1523 recalled that the Seleka started attacking along the road to the market in Boy Rabe[1761] and that she heard gunshots throughout the night.[1762] P-1424 testified that the Seleka fired shots in the air so that the residents would flee.[1763] P-0547

[1753] P-1420: CAR-OTP-2040-0811, at 0830, para. 120. The Chamber notes that P-1420 further explained that the mortar landed in Camp BSS, which was located not far from the National Assembly (*see* P-1420: CAR-OTP-2040-0811, at 0827, 0830, paras 98, 120).
[1754] P-0547: T-012, p. 20. *See also* below paras 749, 752.
[1755] [REDACTED].
[1756] [REDACTED].
[1757] [REDACTED].
[1758] [REDACTED].
[1759] P-1424: CAR-OTP-2049-0198, at 0201, para. 15; P-1825: CAR-OTP-2079-0315, at 0324, para. 50; P-1523: CAR-OTP-2134-2637, at 2641, para. 24. *See also* P-2042: CAR-OTP-2074-0002, at 0009, para. 29; P-0547: T-012, p. 19; P-1263: T-104, p. 48. The Chamber further notes that P-2087 testified that the Seleka came to Boy Rabe two or three days after the investiture on a Tuesday or Wednesday. The Chamber notes that 20 August 2013 was a Tuesday and considers that his testimony aligns with that of other witnesses regarding this operation. *See* P-2087: CAR-OTP-2074-2965, at 2972, para. 48, as corrected by P-2087 during certification (*see* addendum to P-2087's prior recorded testimony, CAR-OTP-00036898, at 0002).
[1760] P-2087: CAR-OTP-2074-2965, at 2972-2973, para. 48. That P-2087 did not see the Seleka directly committing crimes is understandable given he testified that he 'was hiding to avoid being shot by the Seleka': P-2087: CAR-OTP-2074-2965, at 2973, para. 54, *contra* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 124. *See also* P-1424: CAR-OTP-2049-0198, at 0203, para. 30.
[1761] P-1523: CAR-OTP-2134-2637, at 2641, para. 24.
[1762] P-1523: CAR-OTP-2134-2637, at 2642, para. 29.
[1763] P-1424: CAR-OTP-2049-0198, at 0201, para. 15.

and P-1263 also recalled the sound of gunfire throughout the day,[1764] and witnesses testified that everyone fled or hid during the shooting.[1765] P-0547 testified that the Seleka were firing at everyone, including disabled and pregnant women, explaining that they were carrying out their 'operations indiscriminately'.[1766]

730. A number of witnesses testified that the Seleka used vehicles with heavy weapons mounted on them during the assault.[1767] P-2042 stated that there were many BG75s coming and going throughout the day.[1768]

731. Most witnesses described the operation unfolding on 20 August 2013 only.[1769] However, the Chamber received evidence from a number of witnesses that the August operation in Boy Rabe lasted several days.[1770]

(c) Crimes committed during the operation

732. The Chamber received evidence that the Seleka shot individuals during the August operation in Boy Rabe, killing and wounding several people.[1771] For example, several witnesses testified that the Seleka shot P-1427 and killed [REDACTED] who were with him.[1772] P-1427 testified that the Seleka made him and [REDACTED] on the ground and

[1764] P-0547: T-012, p. 19; P-1263: T-104, p. 48; P-1263: T-105, pp. 3-4.
[1765] P-0547: T-012, pp. 17, 19-20, 26-27; P-1263: T-105, p. 5; P-2042: CAR-OTP-2074-0002, at 0009, para. 34; P-1277: CAR-OTP-2051-0966, at 0971, para. 24. *See also* P-2087: CAR-OTP-2074-2965, at 2972, para. 48; P-1424: CAR-OTP-2049-0198, at 0201, para. 15.
[1766] P-0547: T-012, p. 20.
[1767] P-1263: T-105, p. 4; P-2087: CAR-OTP-2074-2965, at 2973-2974, paras 54-55.
[1768] P-2042: CAR-OTP-2074-0002, at 0009, paras 34-35.
[1769] *See* P-2042: CAR-OTP-2074-0002, at 0008-0010, paras 29-36; P-0547: T-012, p. 19; P-1523: CAR-OTP-2134-2637, at 2640-2642, paras 23-30; P-1424: CAR-OTP-2049-0198, at 0201-0202, paras 13-27; P-1427: CAR-OTP-2051-0180, at 0183-0185, paras 13-33; P-1297: CAR-OTP-2039-0167, at 0173-0176, paras 44-60.
[1770] P-2087: CAR-OTP-2074-2965, at 2973-2974, paras 50, 55; P-2563: T-114, p. 24; P-1524: CAR-OTP-2062-0468, at 0472, para. 26. The Chamber notes that the April assault on Boy Rabe took place over a number of days and, given the high level of confusion in the evidence generally on the chronology of events in 2013, the Chamber considers that these witnesses may have been confused as to the length of the August assault.
[1771] *See generally* P-2232: T-102, pp. 21, 24; P-1277: CAR-OTP-2051-0966, at 0971, para. 23; P-1420: CAR-OTP-2040-0811, at 0831, para. 122; P-0100: CAR-OTP-2027-2535, at 2547, para. 71; P-1297: CAR-OTP-2039-0167, at 0175, paras 54-55.
[1772] P-1427: CAR-OTP-2051-0180, at 0183-0185, paras 13-22, 34, referring to sketch of what he described as the crime scene (CAR-OTP-2043-0370) as well as a photograph of his wounds (CAR-OTP-2043-0422); P-1424: CAR-OTP-2049-0198, at 0201-0202, paras 15-26 (*see also* sketch provided by P-1424, CAR-OTP-2043-0312); P-2087: CAR-OTP-2074-2965, at 2975-2976, para. 66, as corrected by P-2087 during certification (P-2087: CAR-OTP-00036898, at 0002); P-0100: CAR-OTP-2027-2535, at 2547, paras 69, 70, 72. The Chamber notes the Defence submission that P-0100's evidence shows that these shootings were the individual act by a neighbour who thought that they had stolen his weapons (*see* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 126). While the Chamber acknowledges P-0100's account, it observes that P-0100's account is largely contradicted by both P-1424 and P-1427 who were witnesses to the events. Accordingly, the Chamber rejects the Defence's submission in this respect. *See also* P-1825: CAR-OTP-2079-0315, at 0324, para. 50. Although P-1825 does not

shot them all, [REDACTED] and wounding P-1427.[1773]

733. In addition, P-1523, who was pregnant at the time, testified that the Seleka accused her husband, [REDACTED], of being a FACA member, and although he denied it and told them that he was a [REDACTED], they proceeded to [REDACTED] and shoot him dead in front of her.[1774]

734. P-1263, a [REDACTED],[1775] testified that a number of Seleka got out of a vehicle and opened fire on a group of people. [REDACTED] stated that some people fled but the Seleka 'arrested' P-1263 and three other people, including [REDACTED], and brought them to the road.[1776] [REDACTED] stated that a Seleka member conferred with Nouradine Adam, who was in his vehicle nearby, following which the Seleka member gave the order to 'finish [them] off'.[1777] P-1263 testified that the Seleka forced him and the other three men [REDACTED] and then shot at them, [REDACTED].[1778] [REDACTED] recalled that he was shot in [REDACTED] but survived, [REDACTED].[1779]

735. Multiple witnesses testified that the Seleka also engaged in widespread looting in the homes of those living in Boy Rabe.[1780]

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specifically identify the victims by name, the Chamber finds the details he provides (specifically in relation to the number of victims, that one survived and that the victims lived in [REDACTED], which the Chamber understands to relate to [REDACTED]) are consistent with the accounts of P-1427, P-1424 and P-2087 and he is referring to the shooting of P-1427 and the [REDACTED].

[1773] P-1427: CAR-OTP-2051-0180, at 0184, paras 17-21.

[1774] P-1523: CAR-OTP-2134-2637, at 2640-2642, paras 23-28. *See also* [REDACTED] regarding the killing of this individual to the [REDACTED] dated [REDACTED], which the Chamber observes is largely consistent with the testimony of P-1523, as well as photographs of the body of her husband at the morgue dated [REDACTED], CAR-OTP-2045-1016, CAR-OTP-2045-1017, CAR-OTP-2045-1018 (*see* P-1523: CAR-OTP-2134-2637, at 2642, paras 36-38; P-1297: CAR-OTP-2039-0167, at 0175, para. 53, referring to [REDACTED]). The Chamber notes that the killing of P-1523's husband appears twice and contains a hand written correction, which P-1297 explained were due to errors which were subsequently corrected. *See also* P-0547: T-012, p. 30. The Chamber is satisfied based on the evidence before it that P-1523's husband was killed by Seleka members, *contra* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 124. *See also* above para. 405.

[1775] P-1263: T-104, pp. 30-31.

[1776] [REDACTED].

[1777] [REDACTED].

[1778] P-1263: T-104, pp. 50-51; P-1263: T-105, pp. 14-15, 53-56.

[1779] P-1263: T-104, p. 50; P-1263: T-105, pp. 14-15, 54-56; P-1263: T-106, p. 7. *See also* P-1263: T-105, pp. 6-8, referring to sketch drawn by P-1263 which depicts where the shooting occurred, CAR-OTP-2045-0834 and T-105, pp. 18-20, referring to photographs of P-1263's injuries, CAR-OTP-2045-0855, CAR-OTP-0856, CAR-OTP-2045-0857, CAR-OTP-2045-0858.

[1780] P-1427: CAR-OTP-2051-0180, at 0183-0184, paras 13, 27; P-1297: CAR-OTP-2039-0167, at 0172, para. 36; P-2042: CAR-OTP-2074-0002, at 0008, 0010, paras 29, 36; P-0547: T-012, pp. 19, 29-30; P-2179: CAR-OTP-2088-2250, at 2254, para. 22; P-1523: CAR-OTP-2134-2637, at 2642, para. 29; P-2563: T-114, p. 24; P-1277:

(d) Perpetrators present during the operation

736. P-1263 testified that the Seleka was the only armed group in Boy Rabe in August 2013[1781] and P-1420, [REDACTED],[1782] testified that a number of Seleka generals and colonels participated in the assault.[1783] [REDACTED] Seleka from the OCRB took part in the August assault on Boy Rabe.[1784]

737. In respect of specific Seleka individuals present during the August assault on Boy Rabe, several witnesses testified that a Seleka member named Abdel Kader (also known as Abou) was present,[1785] as well as a Seleka member named Kondo.[1786]

738. As noted above,[1787] P-1263 testified that Nouradine Adam was present during the August operation and conversed with the Seleka member who gave the order to shoot P-1263.[1788] The Chamber notes that P-1263 described what Nouradine Adam was wearing during the August operation in Boy Rabe,[1789] as well as the vehicle he was in,[1790] and explained

CAR-OTP-2051-0966, at 0971, para. 24; P-0349: T-096, pp. 53-54 (*see* above para. 726, n. 1746); P-2232: T-102, pp. 21, 24. The Chamber notes that P-2232 stated that he thinks that the looting took place in April. However, given the fact that P-2232 makes reference to the inauguration of Michel Djotodia, the Chamber considers him to be mistaken and he is actually referring to events on 20 August 2013. *See* above para. 727, n. 1748.

[1781] P-1263: T-105, p. 46.

[1782] *See* P-1420: CAR-OTP-2040-0811, at 0814, 0818-0819 paras 18, 41-42.

[1783] P-1420: CAR-OTP-2040-0811, at 0830-0831, paras 118-123.

[1784] [REDACTED].

[1785] P-0100: CAR-OTP-2027-2535, at 2549, para. 82; P-0547: T-012, p. 21. The Chamber notes that P-0547 refers to 'Abou', which P-0547 explained was a nickname for Abdel Kader: P-0547: T-012, p. 24. The Chamber notes that [REDACTED] also refers to the presence of a senior Seleka member named Abdel Kade in Boy Rabe on that day, although it is unclear whether this is the same Abdel Kader referred to by P-0100 and P-0547. *See* [REDACTED].

[1786] P-2087: CAR-OTP-2074-2965, at 2973, para. 50. *See also* addendum to P-2087's prior recorded statement, CAR-OTP-00036898, at 0002 (P-2087 clarified that the name Kondo is a nickname); P-1524: CAR-OTP-2062-0468, at 0488, para. 97.

[1787] *See* above para. 735.

[1788] P-1263: T-104, pp. 49-50.

[1789] P-1263: T-105, p. 13. *See also* P-1263: T-105, pp. 11-12. The Chamber notes that this description broadly matches the description of Nouradine Adam as given by other witnesses who met him. *See, for example*, P-0338: T-017, p. 60; [REDACTED]. The Chamber notes that P-0100 stated that Nouradine Adam was wearing a boubou during the August operation (*see* P-0100: CAR-OTP-2027-2535, at 2548, para. 77) which is inconsistent with P-1263's recollection that he wore military fatigues. However, the Chamber does not consider this to be significant, particularly in light of the passage of time since the events, and the fact that both P-0100 and P-1263 had seen Nouradine Adam on a number of different occasions (*see* P-0100: CAR-OTP-2027-2535, at 2554, paras 112-114). In this regard, the Chamber notes that it received evidence that Nouradine Adam would wear both style of outfits (including from P-1263 himself).

[1790] P-1263: T-104, pp. 49-50; P-1263: T-105, p. 9. The Chamber notes that other witnesses present during the August operation also described Nouradine Adam's vehicle: P-1524 testified that he was in a 'Pajero Land Cruiser with dark tinted windows that day' (*see* P-1524: CAR-OTP-2062-0468, at 0488, para. 97) and P-0100 stated that Nouradine Adam and his men had three vehicles (a black Toyota 4x4 in which he rode in the passenger seat and two beige BJ75 land cruiser pick-up trucks) (*see* P-0100: CAR-OTP-2027-2535, at 2548, para. 77). The Chamber notes that P-1263's description is vague and does not align with P-0100's evidence as to the colour of the vehicle in which Nouradine Adam was travelling that day, but it does not consider such details to cast doubt on the witness's clear testimony that he saw Nouradine Adam in Boy Rabe on that day.

that he also saw him on other occasions.[1791] Other witnesses also testified that Nouradine Adam was present during the August operation in Boy Rabe.[1792] The Chamber received evidence from several witnesses that Michel Djotodia was also present during the August operation [1793] with P-1524 and P-1297 testifying that he was present when crimes were being committed.[1794]

c. Killing of minibus passengers on or about 13 July 2013

739. The Chamber received evidence from multiple witnesses, including P-0529,[1795]

[1791] P-1263: T-105, pp. 10, 12-13.
[1792] P-0100: CAR-OTP-2027-2535, at 2548, paras 76-77; P-0547: T-012, p. 33. P-1970 testified that on one occasion when the Seleka were present in Boy Rabe shooting at civilians, he saw Nouradine Adam gesticulate with his arms and walking sticks, following which the men started to go from door to door, firing their weapons. While P-1970 noted it was hard for him to give a date, he recalled that it was in the middle of the Seleka regime, around the second inauguration of Michel Djotodia. While it is not clear from P-1970's evidence whether P-1970 was referring to the August attack, the Chamber is satisfied that Nouradine Adam was present and giving orders to his men in the context of an attack on Boy Rabe: P-1970: CAR-OTP-2087-9396, at 9404-9405, para. 36.
[1793] P-1524: CAR-OTP-2062-0468, at 0488, para. 98. The Chamber is satisfied that P-1524 positively identified Michel Djotodia given that [REDACTED] (*see* P-1524: CAR-OTP-2062-0468, at 0480, para. 60) P-1524 indicated that it was raining that day and the Chamber notes that a number of witnesses remarked on the heavy rain or the fact that it rained all day when describing the events of 20 August 2013. *See, for example*, P-1424: CAR-OTP-2049-0198, at 0201, para. 16; P-1427: CAR-OTP-2051-0180, at 0183, para. 13; P-0547: T-012, p. 19; P-1297: CAR-OTP-2039-0167, at 0174, paras 46-52. *See also* P-0547: T-012, p. 32
[1794] P-1524: CAR-OTP-2062-0468, at 0488, para. 98; P-1297: CAR-OTP-2039-0167, at 0174, paras 45-52 (with P-1297 stating that he saw Michel Djotodia at a scene where Seleka members were looting a bar, persons closer to where Michel Djotodia was standing reported hearing Djotodia instructing his men to kill and take everything and P-1297 then saw him leaving before the Seleka members continued with their crime spree).
[1795] P-0529 [REDACTED] and received calls from several people who were in the vicinity at the time: P-0529: CAR-OTP-2051-0159, at 0163-0164, paras 22, 24, 28 (corrected by the witness in addendum to P-0529's prior recorded testimony, CAR-OTP-00037497, at 000002); P-0529: T-118, pp. 38, 41-44, 46, 51-52. The Chamber observes that during the Defence's examination of P-0529, portions of the prior statements of P-1640 and P-1421 (who were interviewed by the Prosecution, but were ultimately not called or relied upon) were put to P-0529 for comment, notwithstanding that their evidence does not form part of the record. The Chamber has considered the accounts of P-1640 and P-1421 only insofar as they are relevant to its evaluation of P-0529's evidence. The Chamber notes the Defence's arguments concerning discrepancies between the evidence of P-0529 and the accounts of P-1640 and P-1421. For example, P-0529 stated that the Seleka detained the eight men who were on the minibus; P-1640 stated that he saw [REDACTED] face down in the back of the vehicle with his hands tied behind his back; and P-1421 stated that he heard that all the passengers, including the driver, fled (*see* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 127). The Chamber considers that P-0529's responses to these disparities were reasonable (*see* P-0529: T-118, pp. 46, 50) and notes that the core of P-1640's and P-1421's accounts are not incompatible with P-0529's evidence. Specifically, the Chamber considers that the Defence mischaracterised P-1640's evidence and notes that P-1640 did not state that only one person was seen being placed under arrest in the rear of the minibus, but rather that he saw [REDACTED] face down in the back of his vehicle with his hands tied. *See* P-0529: T-118, pp. 46-48. In assessing this evidence, the Chamber has also had regard to P-2573's testimony that he saw [REDACTED] the minibus victims before they were led to the river by Camp de Roux and killed: P-2573: T-091, pp. 28-39. (*contra* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 127).

P-0491,[1796] P-2573[1797] and P-1808,[1798] that the Seleka stopped and searched a minibus in PK9 and found T-shirts depicting François Bozizé[1799] on or about 13 July 2013.[1800] P-0529 testified that as a result of the discovery of the Bozizé T-shirts, the Seleka, including Garba, took male passengers from the minibus to Camp de Roux.[1801]

740. P-2573, a [REDACTED][1802] Seleka insider present at Camp de Roux, testified that Colonel Garba and Ousmane brought four men from PK9 to 'Kader's base' in Camp de Roux.[1803] P-2573 stated that he saw the men seated on the floor, without any shoes and with their hands tied behind their backs.[1804] P-2573 testified that he asked one of the men why they had been arrested, in response to which the man said that 'some fabrics bearing

[1796] P-0491 learnt of the incident shortly after it occurred from P-0529: P-0491: CAR-OTP-2013-0678, at 0681, para. 21, as corrected in the addendum to P-0491's prior recorded testimony, P-0491: CAR-OTP-00036773, at 0002; P-0491: T-099, pp. 26-27. While the evidence of P-0491 does not provide independent corroboration for the evidence of P-0529 (*see* Defence Trial Brief, ICC-01/14-01/21-449-Red, paras 92, 109), noting that P-0529 reported this information to P-0491 shortly after it occurred, the Chamber has taken P-0491's evidence into account in assessing the consistency and reliability of P-0529's evidence, and considers the latter to be reliable.
[1797] P-2573 learnt what had happened from [REDACTED] who saw the 'Bozizé T-shirts': P-2573, T-091, pp. 28, 34.
[1798] P-1808 learnt of the incident from the mother of a victim: P-1808: CAR-OTP-00036277, at 00006, para. 25.
[1799] While some of the details of the witnesses' accounts vary, which the Chamber considers to be understandable noting the circumstances and the passage of time, the witnesses' evidence is consistent in these core aspects.
[1800] Although there are small variations in the witnesses' evidence as to the precise date on which the incident occurred, having regard to the totality of the evidence, including evidence as to the date on which the bodies were recovered, brought to the morgue and identified [REDACTED] (*see* below para. 747), the Chamber is satisfied that the minibus was stopped on or about 13 July 2013. In this regard, the Chamber notes that P-0491 testified that [REDACTED] took the bus on 13 July 2013: P-0491: CAR-OTP-2013-0678, at 0680, para. 13; P-0491: T-099, p. 19. P-0529 testified that the incident occurred on 12 July 2013. While there was a one day disparity in P-0529's in-court testimony (13 July 2013) and prior recorded testimony (14 July 2013) as to when a radio communiqué announcing that bodies had been found was broadcast, the Chamber does not consider the difference of one day to be significant, nor to undermine the reliability of his account. *See* P-0529: CAR-OTP-2051-0159, at 0163, 0167, paras 21-22, 43, 46. P-0358 testified that in mid-July 2013 there was an announcement on the radio that a truck full of passengers was stopped in PK9: P-0358: CAR-OTP-2043-0433, at 0447, para. 96.
[1801] P-0529: CAR-OTP-2051-0159, at 0164-0615, paras 24, 27, 31-32, 34.
[1802] P-2573: T-090, p. 26.
[1803] P-2573: T-091, pp. 28, 34, referring to aerial image, CAR-OTP-2119-0559 (annotated version, CAR-REG-0002-0119); P-2573: T-093, pp. 27-28. As to the Defence's suggestion that P-2573's evidence (that those who brought in prisoners attempted to hide what they were doing from the President) shows that they were acting outside any command structure (*see* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 131), the Chamber notes that P-2573 provided no explanation to support this view: *see* P-2573: T-093, p. 28. The Chamber further considers that P-2573 was not in a position, nor did he otherwise demonstrate a sufficient basis of knowledge, to make reliable assumptions about relations within the Seleka or Michel Djotodia's response to the situation. In this regard, the Chamber notes that P-2573 was a young [REDACTED], who joined the Seleka in Bangui after March 2013. He testified that he did not know the intentions of the Seleka, noting that the Seleka did not trust [REDACTED] who joined the group in Bangui, referred to them as '[REDACTED]' (meaning someone [REDACTED]) and treated them in a way that made it impossible for them to get along well. P-2573 stated that the Seleka thought the [REDACTED] could betray them and reveal their secrets and, as such, did not [REDACTED]. Indeed, P-2573 testified that his intention and that of other [REDACTED] was to not contribute to the shedding of blood of human beings, nor to denounce Bozizé supporters: P-2573: T-090, pp. 24, 26, 34-35, 37-39; P-2573: T-091, p. 7; P-2573: T-093, pp. 21, 28-31. *See also* P-2573: T-091, p. 47; P-2573: T-093, pp. 17-18.
[1804] P-2573: T-091, p. 34.

Bozizé's effigy had been found in their bags and so they thought that they were Bozizé supporters'.[1805]

741. P-2573 testified that while he and three others were [REDACTED] 'on the road' by Camp de Roux that evening,[1806] the four men who had been arrested at PK9 passed him, accompanied by Kader, Garba, Ousmane and three other armed Seleka members,[1807] and went towards the river.[1808] P-2573 testified that the four men had their hands tied behind their backs and were sobbing and crying and asking Kader, Garba and Ousmane for their lives to be saved.[1809] P-2573 testified that he saw the Seleka members put bags over the heads of the prisoners and push them one by one into the Oubangui River.[1810] P-2573 testified that as the Seleka members returned to Camp de Roux, passing P-2573 and the other three guards, the [REDACTED].[1811]

742. P-2573 testified that the morning after the Seleka pushed the men into the river, fishermen retrieved bodies from the river and put them on the riverbank.[1812] P-2573 stated that he knew that the bodies were those of the men he had seen being pushed into the

[1805] P-2573 recalled seeing another Seleka member named [REDACTED] holding the Bozizé T-shirts: P-2573: T-091, pp. 28, 34.
[1806] P-2573: T-091, pp. 28, 30, 35, referring to aerial photograph, CAR-OTP-2119-0560 (annotated version, CAR-REG-0002-0120). *See also* map of Bangui, CAR-OTP-2130-7865. As to the time of P-2573's [REDACTED], P-2573 gave a lengthy, at times internally inconsistent, account, noting that 'the timings were not well defined': P-2573: T-093, pp. 28-31. The Defence submits that P-2573's account is difficult to understand as he claims that individuals were brought to *Camp de Roux* at 20:00, but then stated that he was [REDACTED] outside *Camp de Roux* at 20:00 (Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 131). To the extent that there are slight discrepancies in P-2573's recollection of the time and sequence of events that night, the Chamber does not consider them to affect the coherence or credibility of his narrative.
[1807] P-2573: T-091, pp. 28, 30, 36.
[1808] P-2573: T-091, pp. 31, 37.
[1809] P-2573: T-091, pp. 32, 37-38.
[1810] P-2573 clarified that from where he was 'one can see from about 50 to 70 metres, one can see the river'. The Chamber notes that while P-2573 testified that there was Chinese bamboo on the riverside and it was dark, he stated that there was a lamppost where they were [REDACTED] and they could see 'some parts of the people'. The Chamber is satisfied on the basis of the witness's description that he had a sufficient view of the events and this account is supported by the evidence relating to the subsequent recovery of the bodies from the river as set out below. P-2573: T-091, pp. 31, 36, referring to aerial photograph, CAR-OTP-2119-0560 (annotated by the witness, CAR-REG-0002-0120). *Contra* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 132. The river to which P-2573 refers was the Oubangui River, which the witness identified when shown an aerial photograph of the Camp de Roux area: P-2573: T-091, p. 35, referring to aerial photograph, CAR-OTP-2119-0560 (annotated version, CAR-REG-0002-0120). *See also* map of Bangui, CAR-OTP-2130-7865.
[1811] P-2573: T-091, p. 32. Having regard to the totality of the evidence, the Chamber does not understand P-2573's evidence to suggest that the Seleka were attempting to hide their actions from other Seleka members (c*ontra* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 131. *See* below para. 855. Rather, the Chamber considers this to be a reflection of P-2573's evidence that the Seleka did not trust [REDACTED] Seleka members: *see* above para. 741, n. 1803.
[1812] P-2573: T-091, p. 32.

river because he could recall what they had been wearing.[1813]

743. P-1808 testified that at or around 06:00 one morning,[1814] [REDACTED] bodies 'linked to an incident at PK9' from the Oubangui River, near the Sofitel Hotel.[1815] P-1808 stated that there was a bag over the head of one of the bodies while the hands of at least one other body were tied to the feet behind the back in the *arbatachar* manner and weighed down with rocks.[1816] He recalled that there was a stench coming from the bodies, which were starting to decompose, and deduced that they had perhaps been put into the river within the previous 24 hours.[1817] P-1808 further recalled that a mother recognised one of the bodies on the riverbank as her son, and told P-1808 'the story about the minibus'.[1818]

744. P-1808,[1819] [REDACTED][1820] and P-0529[1821] testified that the bodies which had been recovered from the river were taken to the Hôpital Communautaire.[1822] As to the number of bodies recovered from the river and taken to the morgue, P-1808 testified that he thought six bodies in total were recovered from the river that day, four in the morning

[1813] P-2573: T-091, p. 32. When shown photographs of victims, CAR-OTP-2017-0919 and CAR-OTP-2017-0921, P-2573 observed, in relation to CAR-OTP-2017-0919, that the body pictured closer to the bank was the man [REDACTED] at Camp de Roux, noting he could see he had a pair of trousers and a blue shirt: P-2573: T-091, pp. 38-39, referring to photograph, CAR-OTP-2017-0919.
[1814] The Chamber notes that although P-1808 could not recall the exact date of this event, he [REDACTED] photograph, CAR-OTP-2017-0919, which P-2573 noted was taken on the day the bodies of the victims of the minibus were found: P-1808: T-086, p. 14; P-2573: T-091, p. 38.
[1815] P-1808: CAR-OTP-00036277, at 00006, paras 25-26; P-1808: T-085, pp. 28-33; P-1808: T-086, p. 14, referring to photograph of victim, CAR-OTP-2017-0919, in which he identified himself.
[1816] P-1808: CAR-OTP-00036277, at 00006, paras 27-28; P-1808: T-085, pp. 30-31; P-1808: T-086, p. 14, referring to photograph of victim, CAR-OTP-2017-0919. The Chamber notes that there is a slight discrepancy between P-2573 and P-1808 regarding the manner in which the victims were tied. The Chamber finds this discrepancy does not undermine the reliability of their accounts in light of the fact that both witnesses recognised the victims when shown two photographs of them, CAR-OTP-2017-0919, CAR-OTP-2017-0921, with P-2573 recognising the clothing of one of the victims he saw pushed into the river (*see* P-2573, T-091, pp. 38-39).
[1817] P-1808: CAR-OTP-00036277, at 00007, para. 32.
[1818] P-1808: CAR-OTP-00036277, at 00006, paras 25, 30.
[1819] P-1808 stated that [REDACTED] and noted that the Red Cross removed two additional bodies which were recovered from the Oubangui River that afternoon: P-1808: CAR-OTP-00036277, at 00007-00008, para. 31; P-1808: T-085, pp. 36-37, 42.
[1820] [REDACTED] testified that in mid-July 2013, about 48 hours after hearing an announcement on the radio that passengers aboard a transport truck had been arrested in PK9, the Red Cross brought four or five male bodies, which had been recovered from the river not far from the Oubangui Hotel, to the hospital morgue: [REDACTED]. The Chamber finds [REDACTED]'s account reliable, particularly given that [REDACTED] identified them at the morgue. *See* P-0491: CAR-OTP-2013-0678, at 0681, para. 17; P-0529: CAR-OTP-2051-0159, at 0166, para. 45; P-0529: T-119, p. 6.
[1821] P-0529 recalled that on or about 13 or 14 July 2013, his friends told him that there was a radio communiqué indicating that the Red Cross had transported bodies found by fishermen in the Oubangui River to the morgue at the community hospital: P-0529: CAR-OTP-2051-0159, at 0166-0167, paras 43, 46; addendum to P-0529's prior recorded testimony, CAR-OTP-00001310, at 000001; P-0529: T-119, pp. 4-5.
[1822] While there are some minor disparities in the witnesses' evidence as to the time at which the bodies were taken from the river to the Hôpital Communautaire and the means of transportation (*see* Defence Closing Brief, ICC-01/14-01/21-1039-Red, paras 137-138), the Chamber does not consider these issues to be material, nor to undermine the overall credibility of the witnesses' accounts.

and two in the afternoon.[1823] [REDACTED] testified that the Red Cross brought four or five male bodies from the river to the morgue[1824] and P-0491 stated that he knew of five bodies that were recovered from the river.[1825] The Chamber is satisfied, having regard to the totality of the evidence, that the bodies of at least four minibus passengers were recovered from the Oubangui River and taken to the morgue.[1826]

745. [REDACTED] stated that as soon as the bodies arrived at the morgue, [REDACTED].[1827]

746. P-0529,[1828] P-0491[1829] and [REDACTED][1830] testified that [REDACTED] attended the

[1823] [REDACTED]: P-1808: CAR-OTP-00036277, at 00006, para. 26; P-1808: T-085, pp. 38, 42.
[1824] [REDACTED].
[1825] P-0491: CAR-OTP-2013-0678, at 0681, para. 16.
[1826] In reaching this conclusion, the Chamber has also had regard to, *inter alia*, the evidence of P-2573 that four men from the minibus were pushed into the river and of P-0529, P-0491 and [REDACTED], regarding the identification of the bodies of passengers from the minibus at the hospital morgue: *see* above paras 742-743; *see* below para. 747. *Contra* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 133.
[1827] [REDACTED].
[1828] P-0529 stated that he went to the morgue on [REDACTED] and found the bodies [REDACTED] there. He identified the names [REDACTED], in the morgue register. *See* P-0529: CAR-OTP-2051-0159, at 0167, para. 45. Noting that the record of admissions to the Hôpital Communautaire morgue indicates that the bodies of [REDACTED] were delivered to the morgue at [REDACTED], and were collected by [REDACTED], the Chamber considers that P-0529 was likely mistaken about the date on which he went to the morgue. Consistent with P-0529's evidence regarding [REDACTED] operation of the minibus, the record of admissions to the Hôpital Communautaire morgue lists [REDACTED]. P-0529: T-119, pp. 8-9, referring to record of admissions to the Hôpital Communautaire morgue, CAR-OTP-2044-0573, at 0634, lines 355 and 356. As to the Defence's submission that the record of admissions to the Hôpital Communautaire morgue, CAR-OTP-2044-0573, lacks *prima facie* reliability (*see* Annex A to the Defence Response to the Sixth Bar Table Application, ICC-01/14/01/21-360-Conf-AnxA), the Chamber notes that the document is corroborative and cumulative of the testimony of both P-0529 and P-0491, who confirmed some of the details contained in the exhibit, including the names of [REDACTED] they identified in the morgue and, in P-0491's case, [REDACTED] (*see* P-0529: T-119, pp. 8-9; P-0491: T-099, pp. 50-51). Furthermore, the Chamber recalls that P-3114, a Prosecution investigator, provided evidence regarding the register and its structure (*see* P-3114: T-111, pp. 52-54). The Chamber finds that, in light of the testimony of these witnesses, CAR-OTP-2044-0573 has sufficient authenticity and will rely on it accordingly. *See also* Primature Report, CAR-OTP-2101-1549. As to the Defence's objections to Primature Report, CAR-OTP-2101-1549 (*see* Defence Response to Second Bar Table Motion, ICC-01/14-01/21-299-Red), the Chamber notes that the document bears the official letterhead of Republique Centrafricaine, a date stamp, and is signed and stamped. It also provides support for other reliable evidence, including the evidence of P-0529, P-0491 and [REDACTED].
[1829] P-0491 testified that he went to the morgue [REDACTED] 2013 to identify the body of [REDACTED], who he believed had been on the minibus, noting that although the body was largely unrecognisable, [REDACTED] was able to recognise him. The name of [REDACTED] appears in the record of admissions to the Hôpital Communautaire morgue: P-0491: CAR-OTP-2013-0678, at 0680-0681, paras 13, 15, 17; record of admissions to the Hôpital Communautaire morgue, CAR-OTP-2044-0573, at 0634, line 359. The Chamber cannot be certain whether the handwritten date in the second column of the morgue register is 15 or 16 July 2013 and notes that the date in the ninth column is 16 July 2013. *See also* P-0491: T-099, pp. 52-53, referring to death certificate, CAR-OTP-2013-0689.
[1830] [REDACTED] testified that following a radio communique in mid-July, the families of the victims went to the hospital and identified the bodies as those who went missing 'from that PK9 truck stopped by the Seleka': [REDACTED]. Consistent with the evidence of P-0529 and P-0491, [REDACTED] identified the names of two of the victims, [REDACTED], on a list of deceased [REDACTED] prepared and testified that [REDACTED] was also amongst the passengers killed: [REDACTED], referring to list of victims admitted to morgue at the Hôpital Communautaire prepared by [REDACTED]. P-0491 testified that [REDACTED]: P-0491: CAR-OTP-2013-0678, at 0680, 0682, paras 13, 28.

morgue around 14 to 16 July 2013 and identified the bodies as those who had gone missing from the PK9 minibus stopped by the Seleka.

747. P-0529 testified that he observed that the bodies had their eyes gouged out, their teeth broken and their genitals cut off,[1831] and noted their advanced state of decomposition.[1832] [REDACTED], a doctor [REDACTED],[1833] stated that [REDACTED] could not determine the cause of death, but noted that some of the bodies had traces of having had their hands tied and he thought that they may have been shot, but he was not certain as their skin was affected by the water.[1834] The morgue register lists 'torture' under 'diagnostic services' for at least three of the minibus victims.[1835] The Chamber notes the Defence's arguments regarding the inconsistencies in this evidence.[1836] The Chamber considers that the various accounts of the witnesses as to the condition of the bodies recovered from the river can be explained by the fact that the bodies had been in the river for some time, had decomposed to some degree and may have suffered injury when they were in the water. Notwithstanding this, in view of P-2573's testimony regarding the circumstances of the killings and the consistent evidence regarding the hands of the victims being tied, the Chamber is persuaded that the manner in which these men were killed was torturous.

iii. Population targeted

748. Multiple witnesses testified that the Seleka targeted: (i) Christians;[1837] (ii) members of the Gbaya ethnic group (François Bozizé's ethnic group) and of the Mandja and Banda

[1831] Addendum to P-0529's prior recorded testimony, CAR-OTP-00001310, at 000001.
[1832] P-0529: CAR-OTP-2051-0159, at 0167, para. 46.
[1833] [REDACTED].
[1834] [REDACTED].
[1835] Record of admissions to the Hôpital Communautaire morgue, CAR-OTP-2044-0573, at 0634, lines 355, 356 and 359, referring to [REDACTED]. The Chamber notes that the cause of death for [REDACTED] is listed as 'torture' in the list of victims admitted to morgue at the Hôpital Communautaire prepared by [REDACTED].
[1836] *See* Defence Closing Brief, ICC-01/14-01/21-1039-Red, paras 139-140. *See also* paras 141-142.
[1837] P-2251: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-044-CONF-ENG, p. 29; P-2386: CAR-OTP-2135-2792, at 2802, para. 62; P-0884: T-076, p. 44; P-1004: CAR-OTP-2043-0536, at 0546, para. 73; P-0291: CAR-OTP-2034-0104, at 0118, para. 89. P-1524 stated the Seleka, who were predominantly Muslims, violated the sacred nature of the religious institutions, noting that he observed Seleka members beat a priest when he stepped out of the monastery: P-1524: CAR-OTP-2062-0468, at 0482, para. 70. *See also* P-2251: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-044-CONF-ENG, p. 13; P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-054-CONF-ENG, p. 27; P-2269: CAR-OTP-2111-0336, at 0358, para. 162.

ethnic groups;[1838] (iii) men,[1839] particularly those in the military and security forces;[1840] and (iv) other persons perceived to be associated with François Bozizé or his regime.[1841]

749. P-0435 testified that the Seleka 'accused everyone of being Bozize loyalists,' noting that '[s]ome civilians were arrested and detained just because they looked fit and might have been in the military'.[1842] The Chamber also received evidence that women who were perceived to be associated with men in the FACA were similarly targeted and mistreated.[1843] P-1313 stated that after a Seleka member stole her money and before he raped her, he said 'you people of Boy Rabe are the women of the soldiers. You are stubborn and now that your husbands have gone, you will pay'.[1844] Nicolas Tiangaye testified that speeches by Michel Djotodia and his supporters claimed that Christians had been ruling the CAR since independence and they would need to have power for 50 years.[1845]

750. Witnesses testified that Muslims, in contrast, were spared.[1846] For example, P-0119

[1838] P-1524: CAR-OTP-2062-0468, at 0471-0472, paras 18, 20, 22; P-0435: CAR-OTP-2017-0036, at 0060, 0065, paras 138, 174; P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-054-CONF-ENG ET, p. 27; P-1523: CAR-OTP-2134-2637, at 2639, para. 14; P-1420: CAR-OTP-2040-0811, at 0830, paras 116-117; P-2269: CAR-OTP-2111-0336, at 0339, para. 23; P-2042: CAR-OTP-2074-0002, at 0006-0007, paras 18, 23; P-0787: CAR-OTP-2036-0410, at 0416, para. 31. *See also* P-3047: CAR-OTP-2130-6904, at 6907, para. 19.
[1839] P-2386: CAR-OTP-2135-2792, at 2802, para. 62; P-0882: CAR-OTP-2032-0654, at 0661, para. 41; P-1523: CAR-OTP-2134-2637, at 2639, para. 15; P-1180: CAR-OTP-2043-0483, at 0486, para. 17; P-1004: CAR-OTP-2043-0536, at 0546, para. 73.
[1840] P-2337: CAR-OTP-2104-0411, at 0414, para. 17; P-0435: CAR-OTP-2017-0036, at 0047, 0052, 0064-0066, paras 64, 102, 170, 174, 182-183; P-1524: CAR-OTP-2062-0468, at 0471-0473, 0475, paras 20, 22, 27, 31; P-1825: CAR-OTP-2079-0315, at 0319-0320, paras 27, 32; P-2042: CAR-OTP-2074-0002, at 0007, paras 23-24; [REDACTED]; P-1339: T-132, p. 15; P-2328: CAR-OTP-2099-0165, at 0222, para. 307, draft translation: CAR-OTP-00000147, at 000058, para. 307; P-1970: CAR-OTP-2087-9396, at 9400, para. 18; P-2179: T-054, p. 42; P-0787: CAR-OTP-2036-0410, at 0416, para. 31; P-0881: CAR-OTP-2032-0682, at 0693, 0695, paras 73-75, 87; P-0882: CAR-OTP-2032-0654, at 0659, para. 30; P-1808: CAR-OTP-00036277, at 00004, paras 13, 15; P-1297: CAR-OTP-2039-0167, at 0172, para. 32; P-1420: CAR-OTP-2040-0811, at 0829-830, 0832, paras 110, 116-117, 130.
[1841] *See, for example*, P-1289: CAR-OTP-2053-0359, at 0362, para. 20; P-1524: CAR-OTP-2062-0468, at 0471-0472, paras 20, 24; P-1825: CAR-OTP-2079-0315, at 0317, para. 12; P-0884: T-076, p. 43; P-0100: CAR-OTP-2027-2535, at 2548, 2554, paras 73, 116; P-0481: T-072, pp. 13; P-2232: T-102, p. 15; P-0787: CAR-OTP-2036-0410, at 0415, para. 25.
[1842] P-0435: CAR-OTP-2017-0036, at 0047, 0065, paras 64, 174. *See also* P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-057, p. 49; P-2328: CAR-OTP-2099-0165, at 0222, para. 307.
[1843] *See, for example*, P-1524: CAR-OTP-2062-0468, at 0475, para. 31. *See* also above para. 665 and below paras 1491, 1506.
[1844] P-1313: CAR-OTP-2038-0098, at 0103, para. 34.
[1845] P-0291: T-062, pp. 56-57.
[1846] P-0119: T-082, pp. 49-50; P-1524: CAR-OTP-2062-0468, at 0479, paras 53-55; P-1825: CAR-OTP-2079-0315, at 0320, para. 29; P-2251: CAR-OTP-2093-0045, at 0049, para. 24; P-2386: CAR-OTP-2135-2792, at 2800, paras 44, 46. *See also* P-1825: CAR-OTP-2079-0315, at 0323, para. 44. With respect to the Defence's assertion

recalled that a Muslim woman advised her to wear a head scarf and place a container Muslims use for their ablutions at the door of her house so the Seleka would know that the house belonged to a Muslim.[1847]

751. The evidence shows that the Seleka focused their operations on areas which were perceived to be strongholds of Bozizé supporters.[1848] Multiple witnesses testified that the Seleka heavily targeted the 4th arrondissement, particularly the densely populated neighbourhood of Boy Rabe,[1849] which P-1277 described as 'the battlefield of the Seleka',[1850] and Gobongo.[1851] According to witnesses, the Seleka targeted these areas because they were 'full of' senior officials and soldiers from the Bozizé regime, including members of the FACA and Presidential Guard,[1852] as well as members of the Gbaya ethnic group.[1853] Noting the demographics of Boy Rabe, several witnesses posited that

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that P-0119 was robbed by looters '[REDACTED]', the Chamber notes that although P-0119 [REDACTED]. P-0119 testified that when Seleka members entered her home, she told them in French that she was Muslim, but when they asked her a question in Arabic she did not know how to answer. She stated that the Seleka, therefore, doubted that she was a genuine Muslim and proceeded to loot her house: P-0119: T-082, pp. 7-8; P-0119: T-084, pp. 27, 31, *contra* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 111.

[1847] P-0119: T-082, pp. 22, 25, 28, referring to photograph of container, CAR-OTP-2032-0788.

[1848] P-0342: T-124, p. 33; P-1420: CAR-OTP-2040-0811, at 0830, para. 117; P-0435: CAR-OTP-2017-0036, at 0060, para. 138; P-2105: T-025, pp. 29-30. P-2280 testified, '[i]t was common knowledge that the Boy Rabe neighbourhood was a stronghold of former President Bozize, and thus *de facto* opposed to the Seleka': P-2280: CAR-OTP-2135-3728, at 3735.

[1849] Boy Rabe was located in the 4th arrondissement: map of Bangui, CAR-OTP-2130-7865; P-1264: T-098, p. 7; P-0342: T-124, p. 33; P-2563: T-114, p. 20. [REDACTED] testified that Boy Rabe contained, in 2013, approximately 29 neighbourhoods or *quartiers*, and was densely populated, with the witness's neighbourhood having a population of around 8,000 inhabitants: [REDACTED]. As to the targeting of Boy Rabe, *see*: P-1420: CAR-OTP-2040-0811, at 0830, para. 116; P-1524: CAR-OTP-2062-0468, at 0470-0471, 0473, paras 15, 20, 27; P-2042: CAR-OTP-2074-0002, at 0007, para. 23; P-2027: CAR-OTP-2078-0059, at 0063, para. 30. *See also* P-2280: CAR-OTP-2135-3728, at 3735; P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-057, p. 25.

[1850] P-1277: CAR-OTP-2051-0966, at 0978, para. 61.

[1851] Gobongo was located in the 4th arrondissement: P-0291: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-052, p. 11. As to the targeting of Gobongo, *see*: P-1420: CAR-OTP-2040-0811, at 0830, para. 117; P-2337: CAR-OTP-2104-0411, at 0414, paras 17-18; P-0291: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-052, pp. 7, 11; P-1808: CAR-OTP-00036277, at 00006, para. 24. *See also* P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-057, p. 25.

[1852] P-0834: CAR-OTP-2048-0310, at 0314, para. 19; P-1180: CAR-OTP-2043-0483, at 0486, para. 19; P-2563: T-114, p. 21; P-0342: T-124, p. 33; P-2105: T-025, pp. 29-30; P-0787: CAR-OTP-2036-0410, at 0416, para. 31; P-1420: CAR-OTP-2040-0811, at 0830, paras 116-117; P-1524: CAR-OTP-2062-0468, at 0471-0472, paras 20, 23; P-1524: T-056, pp. 38-39; P-1277: CAR-OTP-2051-0966, at 0978, para. 61; P-2027: CAR-OTP-2078-0059, at 0063, para. 30.

[1853] P-1524 recalled that he heard Seleka members, on many occasions, telling residents of Boy Rabe that the Seleka were being violent towards them because 'it was the neighbourhood where Bozizé's Gabaya and FACA supporters lived and Bozizé was the Seleka's enemy': P-1524: CAR-OTP-2062-0468, at 0471-0472, paras 18, 20. P-1180: CAR-OTP-2043-0483, at 0486, para. 19; P-1420: CAR-OTP-2040-0811, at 0830, paras 116-117; P-2105: T-025, pp. 29-30; P-0435: CAR-OTP-2017-0036, at 0060, para. 138; P-0119: T-082, p. 13; P-3047: CAR-OTP-2130-6904 at 6907, para. 19; P-0787: CAR-OTP-2036-0410, at 0416, para. 31; P-2027: CAR-OTP-2078-0059-R03 at 0063, para. 30; P-1523: CAR-OTP-2134-2637, at 2639, para. 14.

the Seleka considered it to be 'full of weapons'[1854] and 'dangerous for the Seleka regime'[1855] and therefore 'targeted Boy Rabe for disarmament'.[1856] P-1420 observed, however, that 'disarmament' suggests an element of voluntariness, whereas the Seleka would search for people suspected to have weapons, arrest or shoot them and take any weapons by force.[1857]

752. Several witnesses testified that the Seleka also particularly targeted the 7th arrondissement,[1858] a densely populated area with more than 30,000 residents.[1859] The Chamber notes that Camp Kassai (formerly occupied by the FACA and taken over by the Seleka) is located in the 7th arrondissement.[1860] P-1289 believed that the Seleka wanted to find weapons left behind in Ouango by François Bozizé's sons and his Presidential Guards when they left the country.[1861] Witnesses testified that the Seleka

[1854] P-0834: CAR-OTP-2048-0310, at 0314, para. 19. *See also* P-1524: CAR-OTP-2062-0468, at para. 27; P-0100: CAR-OTP-2027-2535, at 2540, para. 32.
[1855] P-2105: T-025, pp. 29-30.
[1856] P-0834: CAR-OTP-2048-0310, at 0314, para. 19; P-0787: CAR-OTP-2036-0410, at 0416, para. 31; P-1825: CAR-OTP-2079-0315, at 0324, para. 50. *See* Defence Closing Brief, ICC-01/14-01/21-1039-Red, paras 103-106.
[1857] P-1420: CAR-OTP-2040-0811, at 0829, para. 114. *See also* P-1970: CAR-OTP-2087-9396, at 0905, para. 36.
[1858] P-1289: CAR-OTP-2053-0359, at 0363, 0365, paras 22, 27, 33. P-0881 and P-0882 recalled that the Seleka antagonised mourners carrying a casket to the cemetery, which resulted in a scuffle between the Seleka and the local population. While the witnesses' evidence differs as to whether this incident occurred on or before 13 April 2013, the Chamber does not consider this slight inconsistency to be significant. *See* P-0881: CAR-OTP-2032-0682, at 0691-0692, paras 62-63; P-0882: CAR-OTP-2032-0654, at 0660, para. 32. P-0882 also recalled a lot of tension between the Seleka and the local population and mentioned in particular a Seleka Colonel in the hill of Ngaragba who would fire his weapons every night and abducted the sister of a 'soldier' in Nguito *quartier*. He noted that in the confrontation which ensued between the population and the Seleka, one of the Seleka weapons was stolen. According to P-0882, the Seleka 'went looking for it' and a *Chef de Quartier* had to intervene to 'calm things down' and return the weapon. *See* P-0882: CAR-OTP-2032-0654, at 0659-0660, paras 28-31.
[1859] The Chamber received evidence that the 7th arrondissement has three *groupements*, comprising 38 *quartiers*. According to witnesses, the first *groupement* is called Ngaragba and consists of Ngaragba, Kassai and part of Gbangouma ([REDACTED]. *See also* [REDACTED]; P-1737: T-045, p. 25), while Ouango is divided into the second and third *groupements* ([REDACTED]). According to witnesses, there were approximately 10,000 residents in the first *groupement* and 20,000 residents in the second *groupement*. The Chamber did not receive evidence as to the number of residents in the third *groupement*. *See* [REDACTED].
[1860] P-1420: CAR-OTP-2040-0811, at 0830, para. 117 (noting that Camp Kassai was targeted because the population was perceived to be Bozizé supporters either because there were FACA families or Gbaya tribe members there); P-0882: CAR-OTP-2032-0654 at 0659-0660, paras 27, 33; P-0881: CAR-OTP-2032-0682, at 0685-0686, paras 17, 25-26; P-1289: CAR-OTP-2053-0359, at 0363, para. 23. *See* below para. 771. P-0881 and P-0882 stated that the Seleka also occupied the Kassai guard post, which was approximately one kilometre away: P-0882: CAR-OTP-2032-0654, at 0659-0660, paras 27, 33; P-0881: CAR-OTP-2032-0682, at 0686-0687, paras 25-26; P-1289: CAR-OTP-2053-0359, at 0363, para. 23.
[1861] P-1289: CAR-OTP-2053-0359, at 0363, paras 19, 22. *See also* P-2179: T-054, pp. 43-44; P-2232: T-102, p. 13. The Chamber notes that P-1289 further testified that a few months after the Seleka's arrival, he [REDACTED]: P-1289: CAR-OTP-2053-0359, at 0363, para. 27; P-1289: T-050, p. 15, referring to *Bureau Provisoire du Desarmement du 7em Arrondissement*, CAR-OTP-2053-0407. The Defence notes that at the time of the facts, many weapons were in circulation or hidden in the 7th arrondissement, which made disarmament operations necessary. *See* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 102.

also targeted the neighbourhoods of Boeing,[1862] Combattant[1863] and PK12,[1864] which were similarly perceived to support François Bozizé, 'either because they had FACA families and/or Gbaya tribe members'.[1865]

753. Similarly, the evidence shows that the Seleka focused their looting activities on areas perceived to be aligned with François Bozizé, such as Boy Rabe,[1866] and the homes of Bozizé supporters,[1867] facilitated by informants ('*indicateurs*').[1868] There is also evidence that the Seleka targeted affluent areas[1869] and the properties of wealthy individuals such as Patrice-Edouard Ngaïssona.[1870]

754. Witnesses who were present when the Seleka arrived in Bangui testified that the population took refuge where they could.[1871] Many witnesses stated that those who felt

[1862] P-1524 testified that Boeing had a large Gbaya presence: P-1524: CAR-OTP-2062-0468, at 0471, para. 20; P-1420: CAR-OTP-2040-0811, at 0830, para. 117; P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-057, pp. 23, 25; P-0884: CAR-OTP-2072-1616, at 1641; P-1339: T-131, p. 15; P-0291: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-052, pp. 5-6. *See also* P-0358: CAR-OTP-2043-0433, at 0449, para. 112.
[1863] P-1524 testified that Combattant had a large Gbaya presence: P-1524: CAR-OTP-2062-0468, at 0471, para. 20; P-1420: CAR-OTP-2040-0811, at 0829, para. 117.
[1864] P-1420: CAR-OTP-2040-0811, at 0830, paras 116-117.
[1865] P-1420: CAR-OTP-2040-0811, at 0830, para. 117. *See also* P-0882: CAR-OTP-2032-0654, at 0659, para. 30 (confirming, *inter alia*, that Camp Kassai is in the 7th arrondissement); P-0881: CAR-OTP-2032-0682, at 0686-0687, 0693, paras 25-26, 73-75; P-1289: CAR-OTP-2053-0359, at 0363, 0365, paras 22, 33.
[1866] P-1313: CAR-OTP-2038-0098, at 0100-0101, para. 17; P-1297: CAR-OTP-2039-0167, at 0170, 0173, 0181, paras 24, 40, 96; P-1524: CAR-OTP-2062-0468, at 0485, paras 86-87; P-0100: CAR-OTP-2027-2535, at 2540-2541, paras 30, 34; P-1429: CAR-OTP-2049-0166, at 0170, para. 18; P-1523: CAR-OTP-2134-2637, at 2639, para. 13; P-2087: CAR-OTP-2074-2965, at 2968, 2970, paras 21, 22, 33.
[1867] For example, several witnesses testified that the Seleka repeatedly looted the house and warehouse of wealthy businessman, Patrice-Edouard Ngaïssona, a Gbaya and former Minister in Bozizé's government, who lived in Boy Rabe: P-1524: T-057, pp. 13-14; P-1524: CAR-OTP-2062-0468, at 0481, 0485, paras 21, 86; P-1420: CAR-OTP-2040-0811, at 0832, para. 128; P-0100: CAR-OTP-2027-2535, at 2549, para. 84; P-1297: CAR-OTP-2039-0167, at 0173, para. 41; P-1277: CAR-OTP-2051-0966, at 0978, para. 61; P-2087: CAR-OTP-2074-2965, at 2968, para. 21; P-0119: T-082, p. 21. P-2386 testified that he saw the Seleka looting the house of François Bozizé's son: P-2386: CAR-OTP-2135-2792, at 2795, para. 17. [REDACTED] testified that the Seleka looted the house of Minister Ngouandjika because 'he was a member of government and he was pro pro-Bozizé at the time': [REDACTED]. P-0119 testified that the Seleka removed [REDACTED], who previously worked at the [REDACTED], from his house, tied him up and 'entirely looted' his house: P-0119: T-082, pp. 21-22.
[1868] P-0664 testified that the Seleka recruited locals to indicate 'the buildings, the houses belonging to dignitaries of the overthrown regime for looting': P-0664: T-101, p. 24. P-1524 testified that he saw a man point out the home of a Presidential Guard to the Seleka: P-1524: CAR-OTP-2062-0468, at 0486, para. 89; P-1429: CAR-OTP-2049-0166, at 0169, para. 16.
[1869] P-2087: CAR-OTP-2074-2965, at 2968, 2979, paras 21, 76 (stating that the Seleka called Boy Rabe 'Mbdimoum' meaning the richest neighbourhood where one goes to find things); P-0100: CAR-OTP-2027-2535, at 2540, 2544-2545, paras 30, 55 (stating that the Seleka called one side of Boy Rabe Douala and the other Dubai meaning that the latter had more expensive items to steal); P-0547: T-015, p. 44; P-0349: T-096, p. 23. *See* Defence Closing Brief, ICC-01/14-01/21-1039-Red, paras 111-112, 114. The Chamber notes that in the context of events prior to the takeover of Bangui, P-1263 similarly testified that the Seleka took the property of wealthy individuals in Sibut: P-1263: T-105, p. 37.
[1870] *See* above n. 1867.
[1871] P-1339: T-131, p. 17; P-3047: CAR-OTP-2130-6904, at 6906, paras 13-14; P-0481: T-072, pp. 13-14.

particularly at risk of being targeted by the Seleka because of their association with François Bozizé's former administration or military and security forces had fled,[1872] and found refuge in other countries,[1873] or hid in safe locations or in the bush around Bangui.[1874] In addition, the Chamber received consistent evidence that people would flee and seek refuge elsewhere to avoid being shot or attacked when the Seleka would enter certain neighbourhoods.[1875] According to witnesses, men in particular fled due to targeting.[1876]

755. The Chamber also evaluated evidence as to whether Bangui residents presented any armed resistance against the Seleka or whether there was a security risk in Bangui from the emerging Anti-Balaka at the time when the Seleka engaged in this campaign of violence against the civilian population.

756. Witnesses recalled two occasions when the local population spontaneously chased or killed Seleka members who had been committing crimes in their areas or were stationed at Seleka bases that had been involved in committing crimes in their areas.[1877] P-2563

[1872] P-3047: CAR-OTP-2130-6904, at 6906-6907, paras 14, 18-19; P-0435: CAR-OTP-2017-0036, at 0047, 0052 paras 64, 102; addendum to P-0435's prior recorded testimony, CAR-OTP-00000620, at 000002; P-0882: CAR-OTP-2032-0654, at 0659, para. 30.

[1873] P-0884: CAR-OTP-2072-1356, at 1380; P-0884: CAR-OTP-2072-1654, at 1664; P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-054-CONF-ENG, pp. 11, 52-53. P-2386: CAR-OTP-2135-2792, at 2802, paras 59-60; P-2232: T-102, pp. 15-16.

[1874] P-0884: CAR-OTP-2072-1397, at 1398-1404; P-0884: CAR-OTP-2072-1356, at 1395; P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-057-CONF-ENG, p. 24; P-0119: T-083, pp. 18-20. [REDACTED] testified that there were approximately 11,600 residents before the Seleka's arrival in [REDACTED], Votongbo 1, and that number went down to possibly 2000 in 2013, consisting mainly of the elderly and the ill, who could not leave, as well as women and children: [REDACTED]. The UNHCHR report of the fact-finding mission to CAR between 20 June and 11 July 2013 noted that at least 400 ex-FACA officials and their families sought refuge in MICOPAX and BINUCA for fear of arrest and reprisals and that some 100 remained at the time of writing the report: UNHCHR Fact-Finding Mission Report, CAR-OTP-2034-0270, at 0291, para. 101.

[1875] P-1339: T-131, p. 15; P-0882: CAR-OTP-2032-0654, at 0660, 0668, paras 33-34, 89; P-0100: CAR-OTP-2027-2535, at 2549-2550, 2552, paras 85, 103; P-1424: CAR-OTP-2049-0198, at 0201, para. 14; P-1297: CAR-OTP-2039-0167, at 0171, 0173, 0175, paras 27, 39, 52; P-0662: CAR-OTP-2099-0336, at 0340, para. 18; P-1523: CAR-OTP-2134-2637, at 2639, 2641, paras 15, 24, 28; P-1825: CAR-OTP-2079-0315, at 0320, 0324, paras 32, 49-50; P-2042: CAR-OTP-2074-0002, at 0006, paras 19-21; P-1277: CAR-OTP-2051-0966, at 0970-0971, 0973, paras 20, 24, 35; P-0119: T-082, pp. 37, 40; P-1524: CAR-OTP-2062-0468, at 0481, para. 66; P-2179: CAR-OTP-2088-2250, at 2254, paras 19-20; P-1263: T-105, p. 5.

[1876] P-0100 testified that the men fled as the Seleka were looking to kill them: CAR-OTP-2027-2535, at 2553, para. 111. P-0119 testified that many people had fled from Boy Rabe 'and, in the neighbourhoods, only women, children and a few men were left': P-0119: T-082, p. 30. *See also* P-0119: T-083, p. 6.

[1877] P-0100 recalled that unarmed Seleka members who were being removed from Boy Rabe by FOMAC were attacked by local residents with machetes and rocks and one of them who became isolated from the others was beaten to death with sticks and stones: P-0100: CAR-OTP-2027-2535, at 2550-2551, paras 91-94. *See also* P-0100: CAR-OTP-2027-2535, at 2539, para. 23 [REDACTED]. P-1297 recalled another occasion when two Seleka members who had stolen a motorbike were chased by the local population in Boy Rabe and crashed the bike resulting in one being killed and the other seriously injured: P-1297: CAR-OTP-2039-0167, at 0173, para.

testified that he heard that the people in Boy-Rabe issued an ultimatum to the Seleka when they took control of Bangui saying that the Seleka were not allowed to patrol there and that two Seleka patrolling in Boy Rabe on 11 April 2013 were killed by former members of Bozizé's Presidential Guard.[1878] P-0435 recalled an incident in Gobongo in the 4th arrondissement when locals threw stones at the Seleka during a protest and the Seleka opened fire and shot all the houses alongside the road.[1879] P-2386 explained that the population was not armed or equipped to physically stop the Seleka but a vigilance committee and intelligence antenna were set up to gather information about planned Seleka attacks so they could warn people and give them time to flee.[1880] He stressed that [REDACTED] he did not know of any armed resistance to the Seleka in his *quartier*.[1881] P-1523 stated that women in the neighbourhood would bang their lids and dishes together as warning that the Seleka were in the neighbourhood, while P-0119 described 'operation casserole' as involving making noise with pots, pans and whistles in order to scare the Seleka away.[1882]

757. In terms of organised armed opposition, the Chamber also received evidence that mortar shells were fired by former members of the state armed forces at Michel Djotodia's convoy and the Seleka stationed at the National Assembly in August 2013 to disrupt Michel Djotodia's swearing-in ceremony on 18 August 2013.[1883] In the context of discussing the 20 August 2013 operation in Boy Rabe, P-2087 mentioned that the FACA soldiers who remained in Boy Rabe did not have a lot of ammunition and would only shoot one bullet at a time.[1884] P-2087 added that 'these resistance FACA soldiers wore black military clothing'[1885] but could not recall how many FACA soldiers remained in Boy Rabe to fight the Seleka.[1886] None of the many other witnesses who described the April and August operations in Boy Rabe mentioned any armed response from resistance fighters within the population, and the Chamber notes that P-2087 does not clarify how

42. Each of these incidents resulted in immediate reprisals against the civilian population in Boy Rabe: P-0100: CAR-OTP-2027-2535, at 2551-2552, paras 95-99. P-1297: CAR-OTP-2039-0167, at 0173, para. 42.
[1878] P-2563: T-114, p. 21. *See also* P-2386: CAR-OTP-2135-2792, at 2798, para. 34. *See* above para. 503.
[1879] P-0435: CAR-OTP-2017-0036, at 0061, para. 148. *See also* P-1825: CAR-OTP-2079-0315 at 0317, para. 13; P-2042: CAR-OTP-2074-0002, at 0010, para. 37.
[1880] P-2386: CAR-OTP-2135-2792, at 2796, paras 23-26.
[1881] P-2386: CAR-OTP-2135-2792, at 2797, para. 27.
[1882] P-1523: CAR-OTP-2134-2637 at 2640, para. 17; P-0119: T-082, pp. 45-46.
[1883] [REDACTED]; P-0100: CAR-OTP-2027-2535, at 2540-2542, paras 31-32, 35, 39. *See* above para. 501.
[1884] P-2087:CAR-OTP-2074-2965, at 2973, para. 52.
[1885] P-2087: CAR-OTP-2074-2965, at 2973, para. 52.
[1886] P-2087: CAR-OTP-2074-2965, at 2973, para. 52.

he knew about the presence of these former FACA soldiers. Therefore, the Chamber considers P-2087's evidence in this regard to be unreliable.

b) Organisation and structure of the Seleka following the 24 March 2013 coup d'état

758. In this section, for the purposes of assessing whether the attack against the civilian population was carried out pursuant to or in furtherance of a state or organisational policy to commit such an attack, the Chamber considers evidence regarding the Seleka leadership, structure, organisation and activities following the 24 March 2013 coup d'état.

i. Leadership of the Seleka

759. Following the takeover of Bangui, as set out below, the evidence shows that the leaders of the individual armed groups forming the Seleka (the CPJP, CPSK and UFDR) continued to play a key role.[1887] The Chamber received evidence that Michel Djotodia was seen by some as the leader of the rebellion and the person 'who controlled everything' within the Seleka and that he regularly communicated with Seleka commanders.[1888] P-1967 testified that, although Djotodia was 'technically highest in rank', in practice he had 'difficulty controlling some of the rogue Seleka commanders and their undisciplined men'.[1889] Nicolas Tiangaye also affirmed that Michel Djotodia did not have full control over all Seleka members and that there were certain Seleka

[1887] The Chamber notes that the Libreville agreement signed in January 2013 indicated that the Seleka was composed of the CPJP, UFDR, UFR, and CPSK: 2013 Libreville Agreement, CAR-OTP-2054-1346, at 1349. However, the Chamber did not receive sufficient evidence regarding the UFR or its leadership thereafter to determine whether this group continued to exist in 2013.

[1888] P-2328: CAR-OTP-2099-0165, at 0216-0217, paras 267, 269, draft translation: CAR-OTP-00000147, at 000052-000053, paras 267, 269; P-1420: CAR-OTP-2040-0811, at 0820, para. 49. P-2478 stated that some Seleka would use the term *'l'affaire du Soleil'* (the 'sun's business') as a reference to Michel Djotodia at the time and this meant that this 'business should not be interfered with': P-2478: CAR-OTP-2107-8835, at 8847, para. 46. [REDACTED] Michel Djotodia's political circle consisted of: (i) General Damane from the Gula ethnic group; (ii) Nouradine from the Runga ethnic group; (iii) Gazam-Betty from the Mandja ethnic group; (iv) Haroun Amalas from the Yulu ethnic group; (v) Djono Ahaba from the Gula ethnic group; (vi) Moussa Dhaffane, a Borno from Bangassou (Nouradine's brother-in-law); and (vii) Mahamat Ousman, a Borno Sharif from Bambari: [REDACTED]. P-1967 stated that 'General Issa Issaka and General Arda were the two closest commanders to President Djotodia': P-1967: CAR-OTP-2069-0498, at 0521, para. 109.

[1889] P-1967: CAR-OTP-2069-0498, at 0519, para. 100. P-1967 recalled two instances which according to him reflected on Michel Djotodia's inability to exert his power over certain Seleka commanders: P-1967: CAR-OTP-2069-0498, at 0519-0520, paras 100-103. P-2105 also recalled that Mahamat Sallet Adoum Kette refused to work for Michel Djotodia, but carried out arrests or interventions at the behest of Nouradine Adam: P-2105: T-025, p. 14.

groups that would only listen to their chiefs.[1890]

760. Jean-Jacques Demafouth and P-1420 described Nouradine Adam as the second-most powerful Seleka leader,[1891] and P-0435 testified that he (Nouradine Adam) was the great leader of the Seleka and was known as 'the most important leader in the Seleka and the most influential person in the country once the Seleka took power'.[1892] Witnesses described him as being 'like a head of state in Bangui',[1893] the 'brain of the Seleka',[1894] and the Seleka's military strategist who would settle all the conflicts between the military leaders.[1895] Nicolas Tiangaye testified that, while Michel Djotodia had political influence, Nouradine Adam had military influence over the troops.[1896]

761. P-0435 stated that [REDACTED] Nouradine should have been president as he had financed the rebellion more than Michel Djotodia.[1897] P-0435 testified that '[t]here were rumours that Nouradine would have been President but he didn't speak Sango and French well enough, so he took the most powerful position in Government, as the Minister of Public Security'.[1898] P-0349 believed that Nouradine's rise within the Seleka was attributable to how much his soldiers fought during the advance on Bangui.[1899]

762. As regards relations between Michel Djotodia and Nouradine Adam, witnesses described a close working relationship between them. For example, P-0435 stated that Nouradine Adam and Michel Djotodia would '[REDACTED]'.[1900] Jean-Jacques Demafouth stated that Nouradine Adam was the man to whom Michel Djotodia listened the most and

[1890] P-0291: CAR-OTP-2034-0104, at 0117, para. 80; P-0291: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-053-ENG, pp. 4, 7. *See also* P-0349: T-096, pp. 5-6.
[1891] P-2328: CAR-OTP-2099-0165, at 0218-0219, paras 273-274, 284, draft translation: CAR-OTP-00000147, at 000054-000055, paras 273-274, 284; P-1420: CAR-OTP-2040-0811, at 0820, para. 52.
[1892] P-0435: CAR-OTP-2017-0036, at 0056, 0059, paras 112, 135.
[1893] P-0100: CAR-OTP-2027-2535, at 2542, 2558, paras 43, 113.
[1894] P-0342: T-124, p. 17.
[1895] P-2328: CAR-OTP-2099-0165, at 0219, para. 284, draft translation: CAR-OTP-00000147, at 000055, para. 284.
[1896] P-0291: T-062, p. 58; P-0291: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-052-ENG, p. 8.
[1897] P-0435: CAR-OTP-2017-0036, at 0045, para. 50.
[1898] P-0435: CAR-OTP-2017-0036, at 0044, para. 46.
[1899] P-0349: CAR-OTP-2075-0812, at 0818, para. 31.
[1900] P-0435: CAR-OTP-2017-0036, at 0056, 0059, paras 112, 136. [REDACTED] testified that Michel Djotodia made appointments to various police units on proposals by Nouradine Adam: [REDACTED]. The witness subsequently explained that when Michel Djotodia signed official presidential orders on Nouradine Adam's proposal, the heading mentioned that the order was on the proposal of the Minister of Public Security: addendum to [REDACTED] where [REDACTED] identified a presidential order with such a heading, [REDACTED].

described relations between them as 'very good'.[1901] Jean-Jacques Demafouth and Nicolas Tiangaye testified that Nouradine Adam reported to Michel Djotodia only.[1902] Nicolas Tiangaye described Nouradine Adam as Michel Djotodia's 'right-hand man', but also as the 'worst person in the Seleka', such that 'even Djotodia was afraid of him'.[1903] P-0349 described hearing about an altercation between Michel Djotodia and Nouradine Adam sometime after August 2013, during which Nouradine Adam refused to visit Michel Djotodia when requested to do so, threatened to hit Djotodia, and instructed his soldiers to draw their weapons and not let him enter when Djotodia attempted to visit him.[1904]

763. Jean-Jacques Demafouth and P-0664 described Mohamed Moussa Dhaffane as 'the Seleka's number three',[1905] and an individual with his own rebel group who was 'quite highly placed in the Seleka hierarchy' and was not there to work 'under' Nouradine Adam.[1906] The evidence shows that, after the events of 24 March 2013, Mohamed Moussa Dhaffane was part of Michel Djotodia's close political circle, and retained his post as Minister of Water, Forests, Wildlife and Fisheries, the Environment and Ecology.[1907] However, the Chamber received evidence that Michel Djotodia dismissed Mohamed Moussa Dhaffane from his post in the government and detained him at Camp de Roux in July 2013. As regards the reasons for Dhaffane's dismissal and detention, Nicolas Tiangaye, who in his capacity as the Prime Minister was in contact with Dhaffane at the time, stated that Dhaffane had disagreed with other Seleka members and denounced the crimes committed by the Seleka and was dismissed without Nicolas Tiangaye's approval or signature.[1908] P-0349, [REDACTED], stated that Dhaffane had told [REDACTED] about preparing 'a coup to liquidate Djotodia'.[1909] According to

[1901] P-2328: CAR-OTP-2099-0165, at 0218-0219, paras 274, 284, draft translation: CAR-OTP-00000147, at 000054-000055, paras 274, 284.
[1902] P-2328: CAR-OTP-2099-0165, at 0219, para. 284, draft translation: CAR-OTP-00000147, at 000055, para. 284; P-0291: T-062, p. 60.
[1903] P-0291: CAR-OTP-2034-0104, at 0120, para. 102.
[1904] P-0349: CAR-OTP-2075-0812, at 0824, para. 62.
[1905] P-2328: CAR-OTP-2099-0165, at 0219, para. 285, draft translation: CAR-OTP-00000147, at 000055, para. 285.
[1906] P-0664: T-101, p. 49.
[1907] Presidential orders, CAR-OTP-2101-1895, at 1896-1897, CAR-OTP-2004-1597, at 1597, 1599, 1605-1606; P-0349: CAR-OTP-2075-0812, at 0818, para. 28; P-2328: CAR-OTP-2099-0165, at 0216, 0219, paras 266, 285, draft translation: CAR-OTP-00000147, at 000052, 000055, paras 266, 285; P-0291: CAR-OTP-2034-0104, at 0120, para. 105. *See* above para. 418.
[1908] P-0291: CAR-OTP-2034-0104, at 0120, para. 105. *See also* P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-057-CONF-ENG, p. 8.
[1909] P-0349: CAR-OTP-2075-0812, at 0821, para. 48.

[REDACTED], Dhaffane was accused of jeopardising State security, detained in a room in the presidential residence at Camp de Roux and released after the events of 5 December 2013.[1910] P-1967, [REDACTED] stated that he did not know who gave the orders for the arrest or why Dhaffane had been detained, but had heard people say that Dhaffane had been planning a coup.[1911]

764. P-0481 identified Abdoulaye Hissene as the third in command in the Seleka coalition.[1912] Although Abdoulaye Hissene had led the CPJP when this group split from the Fundamental CPJP, P-0349 testified that the CPJP reunited once the Seleka arrived in Bangui and Hisene and Nouradine were reconciled.[1913]

ii. Seleka structure

765. Multiple witnesses testified that the Seleka was formed of many small groups, each reporting to their own chief, often a 'General'.[1914] P-0349 testified that Seleka members maintained their loyalties to their own leaders who belonged to their ethnic groups following the takeover of Bangui.[1915]

766. Jean-Jacques Demafouth stated that General Arda (Arda Hakouma, also spelt Arda Akouma)[1916] controlled the most important group of Seleka militants, made up of former members of the UFDR of the Goula ethnicity.[1917] [REDACTED] stated that no one in Camp de Roux would dare to disobey General Arda's orders even if they would sometimes disobey Michel Djotodia.[1918] According to P-1967, General Arda was close

[1910] [REDACTED].
[1911] P-1967: CAR-OTP-2069-0498, at 0514-0515, para. 76.
[1912] P-0481: T-072, pp. 11-12.
[1913] P-0349: CAR-OTP-2075-0812, at 0817-0818, para. 27.
[1914] P-0435: CAR-OTP-2017-0036, at 0059, para. 134; P-2328: CAR-OTP-2099-0165, at 0218, para. 277, draft translation: CAR-OTP-00000147, at 000054, para. 277; P-0291: CAR-OTP-2034-0104, at 0120, para. 100; P-0291: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-052-ENG, p. 8.
[1915] P-0349: T-095, p. 55; P-0349: T-095-FR, p. 62. The Chamber notes that P-0349 stated that almost all the members became uncontrolled, they became rogue after the Seleka arrived in Bangui. Nonetheless, P-0349 acknowledged the continued existence of a form of military coordination based on loyalty to 'leaders who belonged to their ethnic groups'. *See* P-0349: T-095, p. 55; P-0349: T-095-FR, p. 62; P-0349: T-096, pp. 4-5.
[1916] Witnesses have described Arda as 'all-powerful', 'most powerful and most feared Seleka commander', 'untouchable' and a 'close associate' of Michel Djotodia: P-0349: CAR-OTP-2075-0812, at 0826-0827, paras 76-77; P-1967: CAR-OTP-2069-0498, at 0523, para. 115. [REDACTED]. P-1967 identified General Arda in a number of photographs [REDACTED]: P-1967: CAR-OTP-2069-0498, at 0576, referring to photograph, CAR-OTP-2069-2430 (at the back right of the image in a cream uniform); P-1967: CAR-OTP-2069-0498, at 0577: P8080368 to P8080371, referring to photograph, CAR-OTP-2069-2543 (to the left of the image, facing Michel Djotodia with sunglasses on his head).
[1917] P-2328: CAR-OTP-2099-0165, at 0218, para. 277, draft translation: CAR-OTP-00000147, at 000054, para. 277.
[1918] [REDACTED].

to Michel Djotodia,[1919] and the evidence shows that they were both Muslims of Goula ethnicity from Birao.[1920]

767. Witnesses recalled that Seleka Generals close to Michel Djotodia selected their own premises within Camp de Roux as their residences or offices.[1921] P-1967 recalled that those selected to move to Camp de Roux were from the Goula tribe especially from Birao and that they did not want 'undisciplined rebels' there.[1922]

768. P-1167, Nicolas Tiangaye and P-0435 testified that Nouradine Adam, a Muslim of Rounga ethnicity from Ndele, had control over the largest group of Seleka members in terms of numbers.[1923] Jean-Jacques Demafouth stated that Nouradine Adam's guard was very powerful and made up of 100 or so people who were well equipped with weapons and vehicles.[1924] Nicolas Tiangaye testified that Nouradine Adam was in control of the most important fighting group,[1925] and P-0435 stated that most of the generals reported

[1919] P-1967: CAR-OTP-2069-0498, at 0521, para. 109.
[1920] Jean-Jacques Demafouth testified that the Goula ethnic group, which was the group of Michel Djotodia, had the power within the Seleka, and that General Arda's team was made up of men from the Goula ethnic group: P-2328: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-046-CONF-ENG, p. 51; P-2328: CAR-OTP-2099-0165, at 0218, para. 277, draft translation: CAR-OTP-00000147, at 000054, para. 277; P-1420: CAR-OTP-2040-0811, at 0820, para. 49; P-2239: CAR-OTP-2104-0918, at 0932, para. 61; P-0349: T-095, pp. 29-32; P-0349: CAR-OTP-2075-0812, at 0826, para. 76; P-1967: CAR-OTP-2069-0498, at 0524, para. 118; P-1004: CAR-OTP-2043-0536, at 0538, para. 18. *See* above para. 398.
[1921] The evidence shows that these generals included Damane Zakaria and Oumar Sodiam, who were independent Generals outside the command structure of the Presidential Guard at Camp de Roux and who reported only to Michel Djotodia, as well as General Hassane, Michel Djotodia's biological brother, who had been an army commandant during Patasse's regime, was made a general by Michel Djotodia and held the position of the Director General of the Presidential Security at Camp de Roux for a couple of months after the Seleka arrived in Bangui, before he was replaced by General Issa Issaka Aubin. *See regarding* Damane Zakaria, P-1967: CAR-OTP-2069-0498, at 0527-0528, paras 131-133. *See also* P-0349: CAR-OTP-2075-0812, at 0820, para. 43. *See regarding* Oumar Sodiam, P-1967: CAR-OTP-2069-0498, at 0507, para. 45; P-1967: CAR-OTP-00036751, at 0003; P-1967: CAR-OTP-2069-0498, at 0528, paras 134-135, at 0530, para. 143. *See regarding* General Hassan, P-1967: CAR-OTP-2069-0498 at 0520-0521, para. 105; addendum to P-1967's prior recorded testimony, CAR-OTP-00036751, at 0003; P-0358: CAR-OTP-2043-0433, at 0444, para. 78; P-1967: CAR-OTP-2069-0498, at 0510, at 0520-0521, para. 105; referring to photograph, CAR-OTP-2069-0670 (Hassane is identified as the person wearing the red beret); P-1967: CAR-OTP-00036751, at 0003, presidential order, CAR-OTP-2004-1305, at 1320-1321, 1331, 1335 (presidential orders dated 8 May 2013 reinstating Chef de Battalion Justin Hassane in the armed forces, promoting him to the rank of General and nominating him as Director General of the Presidential Guard). *See also* P-1420: CAR-OTP-2040-0811, at 0828, para. 108.
[1922] P-1967: CAR-OTP-2069-0498, at 0506, 0514, paras 39-40, 73. P-1967, [REDACTED], stated that the total number was initially between 1500 and 1800 persons when the groups had converged on the base. P-1967: CAR-OTP-2069-0498, at 0508, para. 47.
[1923] P-1167: T-035, p. 18; P-1004: CAR-OTP-2043-0536, at 0539, para. 24; P-0291: T-062, p. 58; P-0435: CAR-OTP-2017-0036, at 0059, para. 134. *See* above para. 399.
[1924] P-2328: CAR-OTP-2099-0165, at 0219, para. 284, draft translation: CAR-OTP-00000147, at 000055, para. 284.
[1925] P-0291: T-062, p. 58; P-0291: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-052-ENG, p. 8.

to Nouradine Adam.[1926]

769. The Defence highlights evidence, which, in its submission, shows that the Seleka coalition was completely fragmented and disorganised following the takeover of Bangui.[1927] For the following reasons, the Chamber is not persuaded by the perspective of the evidence put forward by the Defence. First, the Defence selectively quotes the evidence and presents it in an incomplete way. When properly considered in context, the Chamber considers much of the evidence relied on by the Defence to be consistent with the evidence set out above regarding the Seleka structure.[1928] Second, the Defence's arguments rely on evidence that the Chamber finds to lack probative value in relation to the issues under consideration.[1929] Third, evidence referring to the 'non-homogenous'

[1926] P-0435: CAR-OTP-2017-0036, at 0059, para. 134.
[1927] Defence Closing Brief, ICC-01/14-01/21-1039-Red, paras 50-53.
[1928] Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 51, referring to P-2105: T-023, p. 36 (where the witness states that, after the Seleka arrived in Bangui, everyone went their own way to get what they could and were not trying to find their leaders or follow them at that time). The Chamber notes that the witness, who was [REDACTED], went on almost immediately to describe how they regrouped at [REDACTED]: P-2105: T-023, pp. 37-38. Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 52, referring to FIDH report, CAR-OTP-2001-2890, at 2903 (which states, '[n]ow that the coup d'état has been accomplished, the allegiance of the Seleka elements to individual leaders remains a reality.'). The Chamber notes that the report goes on to illustrate this by reference to a commander and Colonel who stated that they reported to Nouradine Adam, people saying that each zone leader reported 'to a particular leader of the Seleka militias and the withdrawal of Dhaffane's men from Bangui before he was arrested. The report also notes that the numbers of Seleka increased substantially in the months following the takeover of Bangui and discussed how they were organised in groups who exercised control over different zones or districts and were commanded by 'Com-zones', referring to the examples of Colonel Bichara, Colonel Mahamat Saleh and General Moussa. *See* FIDH report, CAR-OTP-2001-2890, at 2903-2905. Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 51, referring to P-0435: CAR-OTP-2017-0036, at 0059, para. 134 (where the witness states that the Seleka were organised in small groups, reporting to a different Seleka General and that, while some groups reported to other Seleka leaders such as Dhaffane, most of the Generals reported to Nouradine Adam, who was known to have control over the greatest number of Seleka members). Defence Closing Brief, ICC-01/14-01/21-1039-Red, [REDACTED], referring to [REDACTED]. Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 51, referring to P-2573: T-091, p.15 (where the witness stated that the Commander for whom he worked left the Seleka and returned home when he had obtained enough (a vehicle, weapons and ammunition)). The Chamber notes that P-2573 confirms that at all times he was working with the Seleka, he was operating within a chain of command and the fact that his reporting line changed or that one of his commanders returned home after the coup d'état does not change the nature of his evidence that the Seleka were organised in groups that followed reporting lines: P-2573: T-091, pp. 15-18.
[1929] For example, the Defence quotes two articles by Roland Marchal, one published in a journal titled 'Politique africaine' and the other on HAL, a multi-disciplinary open access archive for the deposit and dissemination of scientific research documents, whether they are published or not. In one article, the author expresses the views that Seleka chiefs were unable to control the troops and that the chain of command was almost non-existent. In the other article, the view is given that the Seleka were becoming divided and were fighting each other and were revealed as 'a cluster of armed groups, usually organised on the basis of ethnicity, who were only able to unite and coordinate themselves when money or an existential threat could be discerned.' There is no indication of the expertise of the author in relation to the subject-matter discussed, and no indication is given as to how these views were formed, what information was taken into account and how this information was acquired. In the absence of such information, the Chamber considers the articles referred to by the Defence to have no probative value in relation to the issue of the organisation of the Seleka. *See* Defence Closing Brief, ICC-01/14-01/21-1039-Red, paras 26, 53, referring to journal article, CAR-D33-0005-0009, at 0007, 0013. The testimony of [REDACTED], a Seleka insider witness whose testimony was relied upon most extensively by the Defence, was found by the

nature of the Seleka or clashes and rivalries between different Seleka factions does not affect the conclusion of the Chamber that the core elements of the Seleka were under the control of Michel Djotodia and Nouradine Adam.[1930] As set out above, the Chamber considers it clear from the evidence that the Seleka maintained hierarchical relationships within the original groups of the coalition, and the groups of Michel Djotodia and Nouradine Adam continued to coordinate their activities closely during the time-frame relevant to the charges. Any weaknesses or divisions within the Seleka coalition had no impact overall in their capacity to coordinate closely and maintain control over Bangui.

iii. Setting up of bases and checkpoints

770. P-0435 testified that the Seleka took over many of the police posts and military bases

Chamber to be unreliable insofar as it pertained to the efforts of the Seleka leadership to bring an end to the criminality of the Seleka whom he deemed to be out of control. *See* Defence Closing Brief, ICC-01/14-01/21-1039-Red, paras [REDACTED] (where the witness testified that there were some Seleka leaders who did things of their own volition in the neighbourhoods, would go into neighbourhoods to look for weapons and some of these interventions were illegal and the only purpose was to gain some financial advantage); [REDACTED]. (where the witness testified that if Seleka members carried out exactions, it was because they did not respect the orders of their leaders). [REDACTED] (where the witness referred to 'conflict of those who joined the ranks in Bangui' and a lot of exactions being carried out). Finally, the Defence relies on a newspaper article (Defence Closing Brief, ICC-01/14-01/21-1039-Red, [REDACTED], referring to newspaper article, [REDACTED]). In line with the Chamber's general approach to newspaper articles, the Chamber does not consider this newspaper article to present reliable evidence as to the truth of its contents. *See* above paras 319-320.

[1930] *See* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 50, referring to UNHCHR Fact-Finding Mission Report, CAR-OTP-2034-0270, at 0277, para. 41. The Chamber notes that the Fact-Finding Mission's observation that the Seleka was 'more a composition of blocks in search of individual interest hunting for personal resources rather than a government with a clear political agenda' and a 'non-homogenous entity with soldiers taking instruction from their own commanders' is consistent with the evidence set out above that the Seleka was composed of different groups that followed the orders of their own leaders. Regarding the Fact-Finding Mission's view of the Seleka's lack of a clear political agenda, the Chamber does not consider this to be relevant to its level of organisation or to the question of whether the Seleka had a policy to attack a civilian population. Nevertheless, the Chamber notes that the Fact-Finding Mission ultimately concluded that '[t]he consistency of patterns of violations creates an inference that they were carried out as a result of policy decisions. The continued violations reported in CAR seem to confirm this pattern of behaviour, which is the product of established policies The Séléka leadership is ultimately responsible for the conduct of its forces and should effectively investigate any human rights abuse and prosecute those responsible.' *See* UNHCHR Fact-Finding Mission Report, CAR-OTP-2034-0270, at 0314, para. 225. *See also* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 52, referring to French military document, CAR-D33-0014-3466, at 3474, 3483, which notes, on 17 April 2013, the existence of internal tensions within the Seleka regarding the question of disarmament, notes, on 20 August 2013, that internal tensions were increasingly dividing the Seleka and that clashes between the Rounga and Goula had increased, and notes again on 23 August that internal tensions were increasingly dividing the Seleka and that Nouradine Adam had been dismissed by Michel Djotodia following the events in Boy Rabe but remained nevertheless in the entourage of the Head of State of the Transition given his appointment to CEDAD. The Defence also refers to evidence relating to the group of Abdoulaye Miskine (the FDPC), which was part of the Seleka coalition up until the 2013 Libreville Agreement but left the coalition before the 24 March 2013 takeover of Bangui: Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 52, referring to P-0349: T-095, pp. 45, 47-48. The Chamber does not consider this to be evidence of a split within the leadership of the Seleka coalition during the timeframe of the charges.

after the FACA fled.[1931] There is evidence that Michel Djotodia and Seleka commanders spent approximately one month at the Ledger Hotel after they took over Bangui,[1932] before the Seleka set up base at Camp de Roux.[1933] There is also evidence that the Seleka set up bases, including at the following locations in Bangui: (i) Camp Kassai under the command of Abdoulaye Hissene from the CPJP;[1934] (ii) Camp Béal, which was the command centre of the military police,[1935] and where multiple sections of between 100

[1931] P-0435: CAR-OTP-2017-0036, at 0059, 0061, paras 134, 149. There is evidence that these included the Gendarmerie Academy at Kalongo commanded by Colonels Djarras and Narkoyo, the OCRB Central commanded by Mahamat Said Abdel Kani, the OCRB Ngouciment headed by Commander Amdaga, who reported to Mahamat Saleh, the 92 Logements Antenna, and the OCRB Damala, Camp Fidele Obrou, Base 114 and Base 124. *See* P-2563: T-113, p. 13; P-1967: CAR-OTP-2069-0498, at 0504, para. 29; addendum to P-1967's prior recorded testimony, CAR-OTP-00036751, at 0002; P-0338: T-017, p. 64; P-0435: CAR-OTP-2017-0036, at 0069, para. 149; P-2563: T-113, pp. 9-10; P-1263: T-104, p. 46. P-1420: CAR-OTP-2040-0811, at 0819, paras 43-45; at 0817, para. 36; P-1737: T-045, p. 10; P-2105: T-024, p. 7; P-2607: T-042, pp. 31-32. [REDACTED] testified that the OCRB Ngouciment was under the command of Commander Amdaga, who was from Bria and who reported to Mahamat Saleh, and that the Seleka members based at the OCRB Ngouciment would follow the instructions of Commander Amdaga: [REDACTED]. P-1967 recalled that the Seleka Colonels Djarras and Narkoyo shared the command over the Gendarmerie Academy at Kalongo and turned it into a Seleka base, before partly reallocating the Seleka stationed there to Camp de Roux or the Gendarmerie's national headquarters. P-1967 and P-1970 also associated Narkoyo with the SRI. *See* P-1967: CAR-OTP-2069-0498, at 0504-0505, 0513, paras 29, 31-32, 34, 69-70; addendum to P-1967's prior recorded testimony, CAR-OTP-00036751, at 0002; P-1970: CAR-OTP-2087-9396, para. 28. S*ee also* P-1524: CAR-OTP-2062-0468, at 0486, para. 90. According to P-1967, Colonel Djarras was a Muslim Goula from the Vakaga prefecture and he believed that he may have been in General Issa Issaka's chain of command: P-1967: CAR-OTP-2069-0498, at 0504, paras 29-30. P-1420 stated that Colonel Hissene Khalil was the officer in charge of Base 124, followed by Colonel Mahamoud and that the Seleka and FACA soldiers who returned to work were divided into different groups and assigned different duties and check-points.

[1932] [REDACTED]; P-0349: CAR-OTP-2075-0812, at 0820, para. 42; P-0291: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-053-ENG, p. 6. *See also* P-1289: CAR-OTP-2053-0359, at 0365, para. 34. [REDACTED]. [REDACTED] recalled Nouradine Adam being based there: [REDACTED]. Jean-Jacques Demafouth recalled Alkhatim's group being based at Hotel Ledger when the Seleka arrived in Bangui: P-2328: CAR-OTP-2099-0165, at 0219, para. 278, draft translation: CAR-OTP-00000147, at 000055, para. 278. In a photograph taken at the Ledger Hotel on 24 March 2013, [REDACTED] recognised the following Seleka commanders (from left to right): Arda Hakouma, Ahmad Souleymane (wearing a red beret), Abdel Karim Moussa (wearing a desert-type military uniform), Mahamat Ousman (wearing a scarf around the neck), Kader Knengar (Michel Djotodia's personal chargé de mission): [REDACTED], referring to photograph, CAR-OTP-2001-7581. *See also* photographs, CAR-OTP-2001-7542, CAR-OTP-2001-7572 showing Seleka members at the Ledger Hotel in a photograph taken on 24 March 2013: [REDACTED].

[1933] P-1420: CAR-OTP-2040-0811, at 0829, para. 112; P-1967: CAR-OTP-2069-0498, at 0506-0509, paras 39-45, 50, referring to sketches, CAR-OTP-2069-0608 and CAR-OTP-2069-0609; P-1967: CAR-OTP-00036751, at 0002; P-2563: T-115, p. 52.

[1934] P-2563: T-113, p. 13; P-2328: CAR-OTP-2099-0165, at 0186, para. 104, draft translation: CAR-OTP-00000147, at 000022, para. 104. P-0882 stated that the Seleka were based in the FACA military barracks of Camp Kassai in the 7th arrondissement and also occupied the Kassai guard post, which was approximately a kilometre away: P-0882: CAR-OTP-2032-0654 at 0659, para. 27. Jean-Jacques Demafouth stated that Abdoulaye Hissene arranged for at least 600 men from the CPJP to come down to Bangui and they set up base at Camp Kassai. Jean-Jacques Demafouth stated that those men only responded to Hissene's orders and committed abuses in the city of Bangui. *See* P-2328: T-129, pp. 29-31; P-2328: CAR-OTP-2099-0165, at 0220, para. 286, draft translation: CAR-OTP-00000147, at 000056, para. 286. Witnesses testified that Abdoulaye Hissene was from the CPJP: P-2105: T-025, p. 65; P-2328: CAR-OTP-2099-0165, at 0208, para. 229, draft translation: CAR-OTP-00000147, at 000044, para. 229; P-0349: CAR-OTP-2075-0812, at 0817, para. 25. [REDACTED] also associated Hissene with a number of other Seleka bases at Bozizé's wife's house and the former President Patassé's house: [REDACTED].

[1935] P-2563: T-113, pp. 4-5.

and 200 men each were based under the command of General Yaya Scout, who was working with Colonel Damboucha from the CPJP;[1936] (iii) the SERD/SRI, where Abdel Kader was the Officer-in-Charge,[1937] and where the men of General Abdel Karim Moussa (Deputy Chief of Staff of the Fundamental CPJP appointed *Sous Chef d'État Major* by Michel Djotodia)[1938] were based;[1939] (iv) Camp BSS, where Al Khatim ([REDACTED], the Chief of Staff of the Fundamental CPJP under the command of Nouradine Adam)[1940] was the Officer-in-Charge;[1941] (v) Sapeurs-Pompiers, which was under the command of Moussa Assimeh, a Muslim of Sudanese origin who reported to Michel Djotodia, and where, according to P-1420, Al Khatim also had an office;[1942] and (vi) the Lycée Boganda and premises across the road on the Avenue de l'Independence, under the command of

[1936] P-2328: CAR-OTP-2099-0165, at 0186, para. 104, draft translation: CAR-OTP-00000147, at 000022, para. 104; P-2563: T-113, pp. 4-5. P-0435 was aware of a Seleka base called Camp Béal, that used to be a military base first used by the French military, and later by the FACA, near Hôpital Communautaire; the Seleka also occupied the support regiment (*Régiment de Soutien*), one street away from Camp Béal: P-0435: CAR-OTP-2017-0036, at 0061, para. 150. P-1339 stated that Camp Béal was in the 4th arrondissement, opposite the community hospital: P-1339: T-131, pp. 31-32. Jean-Jacques Demafouth testified that the Seleka occupied Camp Béal forcibly and made life difficult for the civilians living around that camp: P-2328: T-129, p. 30. Regarding General Yaya Scout's presence at Camp Béal, *see* P-0529: CAR-OTP-2051-0159, at 0165, para. 34; P-1004: CAR-OTP-2043-0536, at 0543, para. 52. [REDACTED] testified he along with several others, including [REDACTED] (who became [REDACTED]) set themselves up behind Camp Béal in [REDACTED], under Saleh Adoum Kette's leadership: [REDACTED]. P-1167 testified that Damboucha originally came from Bria and is of the Runga ethnic group from Ndélé: P-1167: T-035, pp. 9-10.

[1937] P-1420: CAR-OTP-2040-0811, at 0821, para. 58; UNHCHR Fact-Finding Mission Report, CAR-OTP-2034-0270, at 0302, para. 160.

[1938] P-0349: CAR-OTP-2075-0812, at 0818, para. 30. *See also* P-0349: CAR-OTP-2075-0812, at 0820, para. 40.

[1939] P-1420: CAR-OTP-2040-0811, at 0816, para. 29; P-1004: CAR-OTP-2043-0536, at 0539, para. 19; P-2328: CAR-OTP-2099-0165, at 0220, para. 287, draft translation: CAR-OTP-00000147, at 000056, para. 287.

[1940] [REDACTED]. [REDACTED] testified that the Rounga were gathered at Camp BSS: [REDACTED].

[1941] P-1420 stated that Al Khatim, a Central African Muslim of Chadian origins, was the officer in charge of Camp BSS in 2013 and had around 300 Seleka members under his command there: P-1420: CAR-OTP-2040-0811, at 0821-0822, paras 60-61. *See also* P-1004: CAR-OTP-2043-0536, at 0539, para. 20. P-1420 testified that Al Khatim would detain people and hold them for ransom, and/or beat, torture or kill them and that he had an office in Sapeurs-Pompiers, where Al Khatim and Moussa Assimeh would detain people and extort money to release them: P-1420: CAR-OTP-2040-0811, at 0827, paras 98-100. P-1004 stated that Al Khatim's group in Bangui at the time was composed of Chadians and Rounga Central African Muslims: P-1004: CAR-OTP-2043-0536, at 0539, para. 20. *See also* P-2328: CAR-OTP-2099-0165, at 0219, para. 278, draft translation: CAR-OTP-00000147, at 000055, para. 278. The Chamber recalls the evidence that Al Khatim was a *Caporal Chef* in François Bozizé's Presidential Guard, who deserted in January 2013 and joined the Seleka, who made him a General: P-1167: T-034, pp. 55-56; [REDACTED]; P-0349: CAR-OTP-2075-0812, at 0820, para. 40. [REDACTED].

[1942] Benjamin Mallo explained that General Assimeh's team was at the firefighter's base (Sapeurs-Pompiers) and he was a Sudanese general who was very influential and he was the brain behind everything that happened in Bangui and partially financed the Seleka's descent on Bangui: P-0338: T-018, p. 32. Jean-Jacques Demafouth testified that Assimeh obeyed only Michel Djotodia's orders: P-2328: CAR-OTP-2099-0165, at 0222, para. 308, draft translation: CAR-OTP-00000147, at 000058, para. 308. Nicolas Tiangaye believed that Moussa Assimeh was 'one of the worst Seleka leaders' responsible for killing many people: P-0291: CAR-OTP-2034-0104, at 0119, para. 95. *See also* addendum to P-0349's prior recorded testimony, CAR-OTP-00036703, at 0002; P-2328: CAR-OTP-2099-0165, at 0222, para. 308, draft translation: CAR-OTP-00000147, at 000058, para. 308; P-1167: T-034, pp. 56-57; P-0662: CAR-OTP-2099-0336, at 0340, para. 21; P-1420: CAR-OTP-2040-0811, at 0827, paras 100-101. As regards the location, witnesses stated that Sapeurs-Pompiers was down the street from the Ledger Hotel and next to the entrance to Camp BSS: P-1420: CAR-OTP-2040-0811, at 0824, para. 79; P-0358: CAR-OTP-2043-0433, at 0449, para. 113.

Colonel Kondo.[1943]

771. The Chamber received evidence that the Seleka occupied locations in and around the 4th arrondissement in Bangui.[1944] P-2105 and P-2563, [REDACTED], testified that a 'military base' for the Seleka meant 'any house or any location where there was a Seleka colonel with his men', including State and private properties.[1945] Benjamin Mallo testified that, after the Seleka entered Bangui, each Seleka chief needed to find a place to base their group.[1946]

772. There is also evidence that Seleka members set up checkpoints in several locations in and around Bangui to control the movement of people and goods.[1947]

iv. Ranks

773. P-0349 testified that Michel Djotodia nominated generals and colonels on an exceptional basis from amongst the Seleka after he became President, and that such ranks were awarded to persons who had been second-class soldiers or even persons who had no military training.[1948]

774. There is also evidence that lower-ranking Seleka members would often choose their own

[1943] P-0100: CAR-OTP-2027-2535, at 2539-2540, para. 26 (noting that the premises across the road were the *Mairie* (Town Hall), the 4th arrondissement's Police Commissariat and the old Post of Communication); P-0358: CAR-OTP-2043-0433, at 0450, para. 118; P-0662: CAR-OTP-2099-0336, at 0341, para. 22. *See also* sketch, CAR-OTP-2027-2567; P-0100: CAR-OTP-2027-2535, at 2561, para. 160. P-0100 testified that Colonel Kondo was the Seleka base commander at Lycée Boganda: P-0100: CAR-OTP-2027-2535, at 2557, para. 134. P-1825 testified that he was Sudanese and P-2042 stated that he believed he was part of Moussa Assimeh's group from Sapeurs-Pompiers: P-1825: CAR-OTP-2079-0315 at 0322, paras 40-41; P-2042: CAR-OTP-2074-0002, at 0007, para. 25. P-1424 stated that there were many Seleka at this location, from where they could control entry into Boy Rabe; the Seleka would leave their vehicles on the Ndress road and enter the neighbourhood on foot: P-1424: CAR-OTP-2049-0198, at 0203, para. 30.

[1944] P-1524, [REDACTED], marked these locations on a map of Bangui: P-1524: CAR-OTP-2062-0468, at 0473, paras 29-30; map annotated by P-1524, CAR-OTP-2062-0492; addendum to P-1524's prior recorded testimony, CAR-OTP-00036108, at 000002.

[1945] P-2105: T-023, pp. 46-47; P-2563: T-113, pp. 13-14. The Chamber received evidence that Seleka members based themselves at the headquarters of François Bozizé's political party, the KNK (Kwa Na Kwa) near the National Assembly and private properties in Poungoulou Market: P-0834: CAR-OTP-2048-0310, at 0314, para. 17. P-0100: CAR-OTP-2027-2535, at 2549, para. 84, at 2561, para. 160, referring to hand-drawn diagram, CAR-OTP-2027-2568; P-1313: CAR-OTP-2038-0098, at 0100, paras 13, 15; P-2087: CAR-OTP-2074-2965, at 2974, paras 57-58; P-0662: CAR-OTP-2099-0336, at 0341, para. 22; P-1524: CAR-OTP-2062-0468, at 0476, para. 35.

[1946] P-0338: T-017, p. 64.

[1947] P-1524: CAR-OTP-2062-0468, at 0473, paras 27, 29; annotated map, CAR-OTP-2062-0492; P-0529: CAR-OTP-2051-0159, at 0165, para. 29; P-2328: CAR-OTP-2099-0165, at 0222, para. 307, draft translation: CAR-OTP-00000147, at 000058, para. 307; P-1420: CAR-OTP-2040-0811, 0817, 0819, paras 36, 45; P-0834: CAR-OTP-2048-0310, at 0323, para. 81. *See also* P-0022: T-134, pp. 72-73.

[1948] P-0349: T-096, pp. 19-20. *See also* P-0119: T-082, pp. 8, 34; P-0119: T-084, pp. 6, 24.

military ranks.[1949] For example, P-0349 testified that as soon as the Seleka got to Bangui, each person with five or six members below them with weapons and a vehicle could proclaim themselves to be of a particular rank.[1950] P-2105 testified that ranks were assigned by individuals together with their colonels.[1951]

775. P-1420 stated that many former FACA soldiers obtained fake promotions and higher ranks after they joined the Seleka and Michel Djotodia would decide whether they deserved it depending on their loyalty to him and how much they helped him during the rebellion.[1952] P-1420 stated that Nouradine Adam 'allowed his Seleka people, who were then working out of the OCRB as the city's new policemen, to choose a rank and he would then decide if they deserved it or not'.[1953] P-1967 stated that only the superior officers were recognised by the authorities.[1954] Jean-Jacques Demafouth stated that people's strength and authority were measured based on military capacity.[1955]

v. Orders

776. A Seleka member testified that the Seleka followed instructions from particular individuals within the hierarchy, and that he himself had not witnessed soldiers not obeying their superiors.[1956] Specifically, the witness recalled receiving instructions from Nouradine Adam which would be passed through General Saleh, who would also give them to all the other leaders under his responsibility.[1957] Other Seleka insider witnesses, in describing their roles and activities within the Seleka, and witnesses who were not in

[1949] P-1967: CAR-OTP-2069-0498, at 0518, para. 95. P-1737: T-044, pp. 25, 34. *See also* P-0035: CAR-D33-0015-4474, at 4484.
[1949] P-1737: T-044, p. 34.
[1950] P-0349: T-095, pp. 50-52.
[1951] P-2105: T-027, p. 18, [REDACTED].
[1952] P-1420: CAR-OTP-2040-0811, at 0816, para. 31. P-1420 gave the following examples: General Abdel Karim Moussa held the rank of *Caporal Chef* when he defected in January 2013 and was made a General and appointed as *Sous-Chef d'État Major* by the Seleka; Colonel Hissene Khalil held the rank of *Caporal Chef* when he defected from the FACA to join the Seleka rebellion and became a Colonel when the Seleka arrived in Bangui; Colonel Mahamoud had been a FACA *Caporal* when he defected to join the rebellion and became a Colonel under the Seleka: P-1420: CAR-OTP-2040-0811, at 0815-0818, paras 26, 29, 31, 35, 38-39.
[1953] P-1420: CAR-OTP-2040-0811, at 0816, para. 31.
[1954] P-1967: T-044, pp. 25, 34.
[1955] P-2328: CAR-OTP-2099-0165, at 0218, para. 277, draft translation: CAR-OTP-00000147, at 000054, para. 277.
[1956] [REDACTED]. [REDACTED], a Seleka member, testified that only those 'who were included in the group under the instructions of their colonel' could carry out the work of the military police; he specified that when they had to 'apprehend elements who were ill-disciplined', they would contact 'our colonel so that we could report back to them': [REDACTED]. [REDACTED], in the context of writing reports, testified that because of his rank he 'just carried out orders' and that it 'was the leaders, amongst themselves, who wrote reports': [REDACTED].
[1957] [REDACTED].

the Seleka but observed their operations, also made it clear that Seleka members were integrated in groups and following orders given by their superiors.[1958]

777. There is evidence that a Seleka Colonel Kader worked at Camp de Roux, as a chief of discipline,[1959] and that he would consult with General Damane and General Ahamat and take orders from the latter.[1960]

vi. Registration and numbers

778. There is evidence that in early April 2013, Seleka members were photographed and issued identity cards bearing the 'Seleka' logo, stamped '*République Centrafricaine* * *Alliance Seleka*', signed by Nouradine Adam, and mentioning the grade and section to which the card bearer belonged.[1961]

779. Nicolas Tiangaye testified that many more people joined the Seleka after they took power and their numbers might have 'doubled or even tripled' as compared to the earlier periods in March 2013, and recalled that Michel Djotodia made public statements in which he acknowledged that it was difficult to provide a precise number of people belonging to the Seleka.[1962]

[1958] P-1825 stated that Colonel Bichara gave orders to other Seleka who addressed him as Colonel: P-1825: CAR-OTP-2079-0315, at 0318, para. 17; *see also* CAR-OTP-2079-0315, 0318-0319, 0321, paras 18-25, 34. [REDACTED] (a Seleka member, under orders from his colonel, divided Seleka members into different groups, he escorted groups to set up check-points, and as part of his administrative duties would give the Seleka militants permission to take leave); P-1967: CAR-OTP-2069-0498, at 0505, para. 34. (Seleka Colonels Djarras and Narkoyo and others decided on the movement and assignment of their respective troops); [REDACTED] (Colonel Said ordered him to guard [REDACTED]); [REDACTED]. *See also* the following evidence showing Seleka leaders giving orders on the activities and deployment of troops: P-1432: CAR-OTP-2073-0743, at 0748, paras 27-29; P-2295: CAR-OTP-2130-9460, at 9465, para. 25; P-1967: CAR-OTP-2069-0498, at 0505, para. 35.

[1959] P-1967: CAR-OTP-2069-0498, at 0510, 0529-0530, paras 56-57, 138-143, referring to photographs showing Colonel Kader, CAR-OTP-2069-3098 (with moustache and wearing green military camouflage attire); P-2563: T-114, pp. 14, 17. P-1967 stated that Colonel Kader *alias* Alkanto was not a Presidential Guard but imposed himself [REDACTED]; he was a Central African Muslim Goula and spoke Arabic, Goula, Sango and French; he lived and worked in a house behind the President's compound at the time. As per P-1967's account, General Hassane left CAR a couple of months after the Seleka arrived in Bangui: P-1967: CAR-OTP-2069-0498 at 0520-0521, para. 105; addendum to P-1967's prior recorded testimony, CAR-OTP-00036751, at 0003.

[1960] P-1967: CAR-OTP-2069-0498, at 0529-0530, paras 138-143.

[1961] [REDACTED]. *See* P-1967: CAR-OTP-2069-0498, at 0505, para. 33, [REDACTED]; addendum to P-1967's prior recorded testimony, CAR-OTP-00036751, at 0002. [REDACTED]: P-2105: T-023, pp. 38-39; P-2105: T-026, pp. 44-45, 48-52; P-2105: T-027, pp. 4-8, [REDACTED]. [REDACTED]: P-2105: T-027, p. 6. [REDACTED]: P-2563: T-112, pp. 12-13, 15-16, [REDACTED]; P-2563: T-115, pp. 4-7. [REDACTED]: P-1967: CAR-OTP-2069-0498, at 0508, para. 49, at 0518, paras 96-97; [REDACTED].

[1962] P-0291: T-062, p. 57; P-0291: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-051-CONF-ENG, pp. 72-73.

vii. Weapons and uniforms

780. Witnesses recalled that during this period, Seleka members moved about Bangui in pickup trucks, sometimes with heavy machine guns mounted on top.[1963] P-1762 stated that at [REDACTED], he saw heavy weapons mounted on top of BG75 vehicles, painted military green with black spots.[1964] P-0100 stated that the Seleka carried 'common AK-47 automatic rifles' and that he saw them with other arms which they used in Boy Rabe including handheld rocket propelled grenades and what they call the '*Orgues de Staline*', which he described as 'multi missile launchers mounted on top of trucks' that can launch missiles one after the other.[1965]

781. P-2563 stated that he had an AK-47, and others had edged weapons, machetes, spears and grenades.[1966] P-2563 stated that when chiefs managed to recover weapons, they would hand them over to people that they liked, but that not everyone was armed.[1967] P-2280 testified that the Seleka were given AK-47 Kalashnikovs and RPG-7-type anti-tank rocket launchers in vehicles with seven or eight men on board.[1968]

782. Regarding uniforms, P-0435 stated that the 'Seleka originally wore camouflage uniforms commonly referred to as desert uniforms because they were sand coloured' and that 'Sudanese and Chadians also have this type of uniform'.[1969] P-0435 testified that the FACA wore green uniforms and that '[l]ater on, some of the Seleka also wore the FACA uniforms, or would mix and match the FACA uniform and the desert form, top and bottom'.[1970] P-1420 stated that the FACA soldiers left French uniforms behind in Camp Béal in 2013 when they escaped and that these uniforms were used by the Seleka.[1971] P-2386 recalled that some of the Seleka had 'green brassards on their arms, with *Forces Speciales* printed on the cloth; others had *Garde Presidentielle* printed on their

[1963] P-2386: CAR-OTP-2135-2792, at 2795-2796, para. 21; P-0100: CAR-OTP-2027-2535, at 2548, para. 77; P-1427: CAR-OTP-2051-0180, at 0184, para. 25; P-1313: CAR-OTP-2038-0098, at 0100, para. 14; P-1825: CAR-OTP-2079-0315 at 0320, para. 30, at 0325, para. 54, referring to photograph, CAR-OTP-2047-0326; P-2607: CAR-OTP-2125-0855, at 0857, para. 14; P-1524: CAR-OTP-2062-0468, at 0476, para. 35.
[1964] P-1762: CAR-OTP-2073-0568, at 0574, para. 32.
[1965] P-0100: CAR-OTP-2027-2535, at 2553, para. 110.
[1966] P-2563: T-112, pp. 29-30.
[1967] P-2563: T-112, p. 30.
[1968] P-2280: CAR-OTP-2135-3728, at 3732.
[1969] P-0435: CAR-OTP-2017-0036, at 0058, para. 126.
[1970] P-0435: CAR-OTP-2017-0036, at 0058, para. 126.
[1971] P-1420: CAR-OTP-2040-0811, at 0817, para. 36.

brassards'.[1972]

783. Other witnesses recalled the Seleka wearing clothes that were a mix of military attire and civilian clothing, with several witnesses associating the wearing of *kadamouls* and turbans with the Seleka.[1973]

viii. Financing and provisioning

784. P-1420 stated that the Seleka militants were not receiving salaries or wages but were being fed through food distributions.[1974] Jean-Jacques Demafouth stated that Michel Djotodia would give money to maintain the troops.[1975] Jean-Jacques Demafouth stated that, depending on the circumstances, Michel Djotodia asked either General Arda, Al Khatim or Ali Darassa to intervene in the field, and each leader would maintain their men using the financial resources that Michel Djotodia gave to them directly.[1976]

785. [REDACTED] stated that approximately two months after the Seleka arrived, he was put in charge of food distribution to some of the Seleka bases ([REDACTED])[1977] on the instructions of General Abdel Karim Moussa.[1978] P-1420 stated that the central depot for Seleka food supplies in Bangui was initially at Sapeurs-Pompiers but moved in mid-2013 to the Police headquarters next to Camp BSS, and that there was a secondary and smaller depot at Base 124.[1979] [REDACTED] similarly described food rationing and distribution at Camp de Roux.[1980]

786. Jean-Jacques Demafouth testified that logistical support was provided by Moussa

[1972] P-2386: CAR-OTP-2135-2792, at 2795-2796, para. 21.
[1973] P-1970: CAR-OTP-2087-9396, at 9404-9405, para. 36; P-0119, T-082, p. 19; P-1523: CAR-OTP-2134-2637 at 2640-2641, paras 18, 25; P-1424: CAR-OTP-2049-0198, at 0201, para. 18; P-0100: CAR-OTP-2027-2535, at 2544, para. 52; P-2295: CAR-OTP-2130-9460, at 9463, para. 17; P-1825: CAR-OTP-2079-0315 at 0318, para. 20; P-2087: CAR-OTP-2074-2965, at 2972, paras 41-42. *See also* P-1297: CAR-OTP-2039-0167, at 0174, para. 49.
[1974] P-1420: CAR-OTP-2040-0811, at 0819, para. 47. [REDACTED] testified that when he worked as a Seleka member at the OCRB ([REDACTED]) and CEDAD ([REDACTED]) he was not paid but he was fed (in CEDAD he specified that he was fed rice and sardines supplied by Nouradine Adam): [REDACTED].
[1975] P-2328: CAR-OTP-2099-0165, at 0217, 0219, paras 269, 280, draft translation: CAR-OTP-00000147, at 000053, 000055, paras 269, 280.
[1976] P-2328: CAR-OTP-2099-0165, at 0219, para. 280, draft translation: CAR-OTP-00000147, at 000055, para. 280.
[1977] [REDACTED].
[1978] [REDACTED]. [REDACTED] stated that deliveries were made of raw materials every other day and that the signature of someone in charge, showing the delivery was made was required: [REDACTED].
[1979] P-1420: CAR-OTP-2040-0811, at 0824, para. 79.
[1980] [REDACTED].

Assimeh, who was a specialist in heavy weapons.[1981]

ix. Training

787. P-2573, who joined the Seleka after they arrived in Bangui, testified that they underwent military training at Camp de Roux under the instruction of FACA trainers.[1982] P-1737 testified that certain camps were designated as military training camps including Camp Kassai, Berengo, a camp in Sibut and Camp Béal.[1983] There is evidence that Seleka members were sent to Camp Kassai for military training, with one witness indicating that the training began in November 2013 and involved almost 600 Seleka members.[1984]

788. P-2105 testified that after the Seleka arrived in Bangui, members from various ethnic groups were selected for training and assignment to the Presidential Guard, because, at the time, there was no one who had military training for that purpose.[1985] P-2105 stated that [REDACTED] the training did not take place; he stated that subsequently, 'the president indicated that, in order to travel in Bangui town, a general had to travel with two security guards, a colonel with one security guard, and all the other elements had to remain in barracks' and 'only elements who were part of the presidential guard were authorised to move about in military uniform and bearing weapons in the town'.[1986] [REDACTED].[1987]

c) Relationship between the Seleka and the State authorities

i. Seleka's role in the *de facto* government

789. The evidence shows that when the Seleka took over Bangui on 24 March 2013, Michel Djotodia proclaimed himself President, suspended the Constitution, dissolved the Government of National Unity, the National Assembly and the Constitutional Court and

[1981] P-2328: CAR-OTP-2099-0165, at 0218, para. 277, draft translation: CAR-OTP-00000147, at 000054, para. 277. Witnesses recalled Moussa Assimeh as a Muslim of Sudanese origins, who spoke Arabic: P-0338: T-018, p. 32; addendum to P-0349's prior recorded testimony, CAR-OTP-00036703, at 0002; P-2328: CAR-OTP-2099-0165, at 0222, para. 308, draft translation: CAR-OTP-00000147, at 000058, para. 308; P-1167: T-034, pp. 56-57; P-0662: CAR-OTP-2099-0336, at 0340, para. 21. Jean-Jacques Demafouth testified that Assimeh obeyed only Michel Djotodia's orders: P-2328: CAR-OTP-2099-0165, at 0222, para. 308, draft translation: CAR-OTP-00000147, at 000058, para. 308. Nicolas Tiangaye believed that Moussa Assimeh was 'one of the worst Seleka leaders' responsible for killing many people: P-0291: CAR-OTP-2034-0104, at 0119, para. 95.
[1982] P-2573: CAR-OTP-2119-0532, at 0550, para. 78; P-2573: T-091, p. 42.
[1983] P-1737: T-044, p. 16.
[1984] P-1967: CAR-OTP-2069-0498, at 0508, para. 47. P-2563: T-114, p. 14; P-2563: T-115, pp. 53-54; P-2573: CAR-OTP-2119-0532, at 0551, para. 81.
[1985] P-2105: T-027, pp. 19-20.
[1986] P-2105: T-027, pp. 19-20.
[1987] [REDACTED].

began to rule by presidential order.[1988] Presidential orders issued on 31 March 2013 show that Michel Djotodia established a '*Gouvernement de Transition*' ('Transitional Government') and appointed a number of persons associated with the Seleka as senior ministers.[1989] The evidence shows that Michel Djotodia was inaugurated as President on 18 August 2013.[1990]

790. Nicolas Tiangaye stated that Michel Djotodia, as President, was supposed to head the Cabinet, but did not 'show up most of the time' and 'was always busy with security issues'.[1991] [REDACTED] a meeting of Ministers chaired by Michel Djotodia was scheduled every Thursday at the Presidential Palace, but Michel Djotodia was not always available, and as a result the meeting of the Council of Ministers would be cancelled.[1992] Nicolas Tiangaye stated that Michel Djotodia did not follow the constitutional rule that presidential orders must be signed by both the President and the Prime Minister.[1993] Nicolas Tiangaye testified that Michel Djotodia 'did not have the skills to run the country' nor was he 'able to control the country or the security situation'.[1994]

791. As regards the functioning of the State Ministries, Nicolas Tiangaye stated that most of the Ministries did not 'really function during that time', pointing out that some of the 'Seleka ministers were very young and inexperienced'.[1995] Nicolas Tiangaye recalled that

[1988] UNSG Report May 2013, CAR-D30-0004-0102, at 0103, para. 6; UNHCHR Report September 2013, CAR-OTP-2001-0172, at 0176, para. 9. Jean-Jacques Demafouth recalled that on 25 or 26 March 2013, he heard three constitutional acts being read out on the radio granting Michel Djotodia the powers of the head of state: P-2328: CAR-OTP-2099-0165, at 0216, para. 266, draft translation: CAR-OTP-00000147, at 000052, para. 266.
[1989] Constitutional (Provisional Organisation of State Powers) Act no. 2 of 26 March 2013, CAR-OTP-2004-1597, at 1599, 1605-1606. *See also* P-0291: T-061, pp. 46-65; [REDACTED]. This included Mahamat Kamoun (Chief of Staff to the President of the Republic), Herbert Gotran Djono-Ahaba (Senior Minister of Mines, Petroleum, Energy and Hydraulics), Crépin Mboli-Goumba (Senior Minister of Infrastructure, Public Works and Territorial Connectivity, Government Spokesperson), Nouradine Adam (Senior Minister of Public Security), Mohamed Moussa Dhaffane (Minister of Water, Forests, Wildlife and Fisheries, the Environment and Ecology), Christophe Gazambetty (Senior Minister for Communication, Promotion of Civic Culture and National Reconciliation), and Abdoulaye Hissene (Minister of Youth, Sports, Arts and Culture). As regards Crépin Mboli-Goumba. *See also* P-1967: T-094, p. 20. Jean-Jacques Demafouth and [REDACTED] named the following individuals at the core of the political structure of the Seleka, *inter alia*: Nouradine Adam, Mohamed Dhaffane, Djono Ahaba, and Christophe Gazambeti: P-2328: CAR-OTP-2099-0165, at 0216, 0219, paras 266, 282, draft translation: CAR-OTP-00000147, at 000055, paras 266, 282; [REDACTED].
[1990] P-2232: T-104, pp. 17-18, referring to newspaper article, CAR-OTP-2050-0989; [REDACTED], referring to photographs dated 18 August 2013, CAR-OTP-2069-2900, CAR-OTP-2069-2903; P-1277: CAR-OTP-2051-0966, at 0971, para. 21.
[1991] P-0291: CAR-OTP-2034-0104, at 0117, para. 76.
[1992] [REDACTED].
[1993] P-0291: CAR-OTP-2034-0104, at 0117, paras 76-77.
[1994] P-0291: CAR-OTP-2034-0104, at 0117, para. 80.
[1995] P-0291: CAR-OTP-2034-0104, at 0120, para. 103. Nicolas Tiangaye gave the example of the Minister of Water, Forests, Wildlife and Fisheries, the Environment and Ecology who replaced Moussa Dhaffane, who had not 'even finished his studies yet'.

despite the fact that Nouradine Adam was the Minister of Public Security, he almost never showed up at the Cabinet meetings, and he only saw him twice during these meetings.[1996]

792. Nicolas Tiangaye stated that from 'March 2013 until January 2014, the Seleka dominated the government'.[1997] Nicolas Tiangaye testified that the Seleka had come to power through the force of arms, 'had no democratic culture', and 'could not accept that institutions function normally because the only language they knew was the language of force'.[1998] Nicolas Tiangaye gave evidence that the end of the presidential mandate should have corresponded to the limit set by the 2013 Libreville Agreement, but the Seleka took no decision on the organisation of elections.[1999]

ii. Functioning of public institutions during Michel Djotodia's presidency

a. State of civil institutions

793. As regards public institutions resuming work after 24 March 2013, the Chamber recalls its evidentiary analysis concerning calls made by Michel Djotodia and Nouradine Adam, among others, to civil servants and members of the defence and security forces to resume their duties.[2000] The Chamber also recalls its analysis regarding the difficult and tense working relationship between the Seleka and FACA members who resumed their duties at this time.[2001] Benjamin Mallo testified that, although civil servants did resume work, they had no decision-making power and the institutions only existed in a nominal fashion.[2002] Jean-Jacques Demafouth testified that the institutions that had been in existence in CAR 'were thrown into disarray' in 2013.[2003]

794. Jean-Jacques Demafouth stated that the situation of the justice system at the time in CAR was 'pathetic, and everyone knew that justice could not be truly administered throughout

[1996] P-0291: CAR-OTP-2034-0104, at 0120, para. 102.
[1997] P-0291: CAR-OTP-2034-0104, at 0116, para. 75.
[1998] P-0291: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-053-ENG, p. 8.
[1999] P-0291: T-062, pp. 56-57.
[2000] *See* above paras 436-438.
[2001] *See* above para. 439.
[2002] P-0338: T-018, p. 61.
[2003] P-2328: T-128, p. 10.

the territory'.[2004] Benjamin Mallo testified that the judicial institutions were largely 'ornamental' during this time and noted that although there were certain leaders who were in their offices they were not working and there was no justice.[2005] P-1289 who was detained and mistreated by the Seleka at the OCRB, stated that he was advised by his lawyer not to file a complaint at the time 'as many of the judges were involved with the Seleka'.[2006]

795. According to P-2280, the Seleka's takeover of Bangui was accompanied by the pillaging of all public and State services.[2007] P-2280 stated that the provost gendarmerie came to know that the Seleka had helped themselves to the FACA's weaponry stocks, which had completely disappeared.[2008] [REDACTED] stated that the *Compagnie Nationale de Sécurité* (police service) was completely pillaged by the Seleka after the attack on Bangui in March 2013.[2009]

796. As regards State finances at the time, Nicolas Tiangaye recalled being forced to go to Brazzaville to borrow money on behalf of the State to pay the civil servants' salaries given the difficult economic situation in the country at the time.[2010] Nicolas Tiangaye stated that the State had no revenue and, while 'the Seleka members were in charge of everything' and 'collected taxes', 'they did not collect money' for the State but 'kept everything for themselves', meaning that no money reached the State coffers.[2011] Jean-Jacques Demafouth recalled witnessing an instance in August or September 2013, where Michel Djotodia demanded that the Director General of the treasury bring money, so that Michel Djotodia could 'transmit it to the military leaders of the Seleka'.[2012] P-1420 testified that the Seleka leadership purchased the Seleka's food supplies from the Muslim

[2004] P-2328: T-128, p. 17.
[2005] P-0338: T-018, p. 58.
[2006] P-1289: CAR-OTP-2053-0359, at 0377, para. 104.
[2007] P-2280: CAR-OTP-2135-3728, at 3730.
[2008] P-2280: CAR-OTP-2135-3728, at 3732. P-2563 also stated that when the Seleka entered Bangui, they went to the police school (located at PK10, towards PK11, after the PK12 roadblock, towards the central town) to recover military material that had been abandoned by the South Africans, including military uniforms, weapons, gun magazines, and vehicles: P-2563: T-112, p. 27.
[2009] [REDACTED].
[2010] P-0291: CAR-OTP-2034-0104, at 0118, para. 84; P-0291: T-062, p. 28.
[2011] P-0291: CAR-OTP-2034-0104, at 0118, para. 86.
[2012] P-2328: CAR-OTP-2099-0165, at 0219, para. 281, draft translation: CAR-OTP-00000147, at 000055, para. 281. Jean-Jacques Demafouth did not know exactly how much money was requested but saw this director come to the President's office with money in a bag.

merchants in PK5 using the government's FACA budget.[2013]

b. Defence and security forces during Michel Djotodia's Presidency

(i) Leadership of the defence and security forces

797. The Chamber received evidence that, after replacing François Bozizé as President, Michel Djotodia appointed himself as the Minister of Defence,[2014] a Ministry which he subsequently delegated to General Bertrand Mamour.[2015] Nicolas Tiangaye stated that, when Michel Djotodia came to power, he (Michel Djotodia) was the supreme commander of the army, the supreme commander of the Seleka and that the police and the gendarmerie were under him.[2016] Documentary evidence shows that Michel Djotodia officially nominated Nouradine Adam as Minister of Public Security on 31 March 2013.[2017]

798. There is evidence that Michel Djotodia appointed Seleka General Abdel Karim Moussa[2018] as the army's *Chef d'État Major Adjoint*.[2019] P-1420 stated that General

[2013] P-1420: CAR-OTP-2040-0811, at 0824, para. 79.
[2014] Presidential order, CAR-OTP-2004-1597, at 1605-1606. Nicolas Tiangaye confirmed that Michel Djotodia continued in the role of Minister of Defence following the coup d'état: P-0291: T-061, p. 57.
[2015] Presidential order, CAR-OTP-2004-1597, at 1607, which is a presidential order signed by Michel Djotodia appointing Ministers to the government dated 31 March 2013 stated that Mamour was Assistant Minister of Defence. Multiple witnesses identified General Mamour as Minister of Defence during this time: P-0358: CAR-OTP-2043-0433, at 0443, para. 73; P-2328: CAR-OTP-2099-0165, at 0212, para. 255, draft translation: CAR-OTP-00000147, at 000048, para. 255; P-0882: CAR-OTP-2032-0654, at 0665, para. 68.
[2016] P-0291: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-051-CONF-ENG, p. 32. *See also* P-2328: CAR-OTP-2099-0165, at 0216, para. 267, draft translation: CAR-OTP-00000147, at 000052, para. 267. Jean-Jacques Demafouth recalled seeing Michel Djotodia giving disciplinary instructions to the leaders at Camp Béal and the Camp in Berengo, where the Seleka soldiers were quartered: P-2328: CAR-OTP-2099-0165, at 0217, para. 269, draft translation: CAR-OTP-00000147, at 000053, para. 269. There is evidence that Michel Djotodia, in a ceremony in June 2013, conferred FACA ranks to individuals associated with the Seleka, including those that had never had any military background or training: [REDACTED].
[2017] Presidential order, CAR-OTP-2004-1597, at 1605, 1608; presidential order, CAR-OTP-2005-0343. *See also* P-0435: CAR-OTP-2017-0036, at 0044, 0048, paras 45, 73.
[2018] Witnesses stated that Abdel Karim Moussa was of Rounga ethnicity, born in Ndele and had a Chadian father and Central African mother; he spoke Sango, French and Arabic. P-1420 stated that Abdel Karim Moussa was part of Bozizé's *Libérateurs* and was a former Presidential Guard, holding a rank of *Caporal Chef* in January 2013 and defecting from the FACA with 25 other Presidential Guards before March 2013. *See* P-1420: CAR-OTP-2040-0811, at 0815-0816, paras 26-27; P-1004: CAR-OTP-2043-0536, at 0539, para. 19. [REDACTED]: P-0349: CAR-OTP-2075-0812, at 0818, para. 30. P-2105 stated that Abdel Karim Moussa had his own troops but did not know how many: P-2105: T-026, p. 29.
[2019] Presidential order, CAR-OTP-2004-1446, at 1464, appointing Abdel Karim Moussa as '*Chef d'état-major des Armées Adjoint*' on 17 April 2013. The Chamber notes that P-1420, at different points in his prior recorded testimony, stated that Abdel Karim Moussa was the *Chef d'État Major* (para. 29) and *Sous Chef d'État Major* (para. 113). The Chamber considers it to be clear from the context of his testimony that Abdel Karim Moussa was in a senior role formally below General Bombayeke: P-1420: CAR-OTP-2040-0811, at 0816, 0829, paras 29, 113.

François Bombayeke[2020] was the *Chef d'État Major* 'in charge of the entire military and higher in command than General Abdel Karim Moussa', but that 'he was only a symbolic figure' and the latter was really in charge.[2021] P-1420 stated that General Abdel Karim Moussa was in charge of Seleka operations and was dismissive of Bombayeke, although he was his superior, and would discuss operations with and take orders directly from Michel Djotodia and Nouradine Adam.[2022] Jean-Jacques Demafouth stated that General Bombayeke 'could no longer bear [the] Seleka way of working and he ended up being dismissed and replaced by General Dolewaya who would also, in turn, end up resigning'.[2023]

799. The Chamber also received evidence that Michel Djotodia appointed senior Seleka figures to key positions in presidential security. Witnesses testified that the Seleka General Issa Issaka (also known as Issa Banda)[2024] was in command of Michel Djotodia's Presidential Guard and the Seleka General Arda Hakouma was in charge of his personal security detail.[2025] There is evidence that at least some of the Seleka Generals within Djotodia's presidential security were appointed by presidential order.[2026]

[2020] P-1420 stated that prior to the Seleka arrival, François Bombayeke, a Christian Central African, was a FACA *General de Brigade* and had been imprisoned by François Bozizé at Camp de Roux for almost two years and eventually set free in November 2012. The Seleka recruited him when they arrived in Bangui: P-1420: CAR-OTP-2040-0811, at 0820-0821, paras 54-55.

[2021] P-1420: CAR-OTP-2040-0811, at 0821, para. 56.

[2022] P-1420: CAR-OTP-2040-0811, at 0829, para. 113.

[2023] P-2328: CAR-OTP-2099-0165, at 0217, para. 270, draft translation: CAR-OTP-00000147, at 000053, para. 270. A presidential order issued by Michel Djotodia shows that General Jean Pierre Dolewaya was appointed as '*Chef d'état-major des Armées*' on 17 April 2013: CAR-OTP-2004-1446, at 1464. *See also* diplomatic cable, CAR-D33-0014-2166, at 2169; archived record, CAR-D33-0014-3508. [REDACTED]. A presidential order dated 9 September 2013 issued by Michel Djotodia stated that Ferdinand Bombayeke, previously retired, resumed service for two years beginning 1 September 2013: presidential order, CAR-OTP-2004-1003, at 1014. *See also* UNSG Report December 2013, CAR-OTP-2001-0329, at 0335, para. 31; P-0358: CAR-OTP-2043-0433, at 0449, para. 111; P-1967: CAR-OTP-2069-0498, at 0533-0534, para. 159.

[2024] P-1004: CAR-OTP-2043-0538, 0538, para. 16.

[2025] P-1967: CAR-OTP-2069-0498, at 0518, 0521, paras 94, 106-109, referring to [REDACTED], CAR-OTP-2069-0611; addendum to P-1967's prior recorded testimony, CAR-OTP-00036751, at 0003; P-0349: CAR-OTP-2075-0812, at 0825-0826, paras 64, 70, 73. *See also* P-1420: CAR-OTP-2040-0811, at 0828, para. 107; P-0834: CAR-OTP-2048-0310, at 0320, at para. 58; P-0358: CAR-OTP-2043-0433, at 0442-0443, para. 68.

[2026] A presidential order dated 25 May 2013 states that Michel Djotodia appointed General Mahamat Ahmat (as Director General Adjoint): presidential order, CAR-OTP-2004-1385, at 1420-1421. P-1967 gave evidence about Mahamat Ahmat [REDACTED]. P-1967 stated that Mahamat Ahmat was a Muslim from Chad and had a group of men under his command who had come from the area past Ndele near the Chadian border and who spoke French or Arabic or both, but no Sango or Goula. P-1967 stated that Mahamat Ahmat and his unit composed of about 30 members arrived in Camp de Roux at the same time as Michel Djotodia and General Arda. This unit was not Presidential Guards or part of the *Sécurité Rapprochée* team; these were simply those that had arrived in Bangui with him. P-1967 stated although General Arda and General Issa were Mahamat Ahmat's commanders, this only applied to the time [REDACTED], but outside of that, Mahamat Ahmat did not take orders from them and dealt with Michel Djotodia directly. [REDACTED]. *See* P-1967: CAR-OTP-2069-0498, at 0525-0527, paras 125-130.

800. Multiple witnesses testified that Henri Wanzet Linguissara continued as the Director General of the Central African police during Michel Djotodia's Presidency,[2027] but Michel Djotodia appointed Seleka General Adoum Rakiss as Deputy Director General of the police.[2028] Jean-Claude Sophil testified that parallel structures were used by the Seleka throughout the police and security services whereby an official from the police or gendarmerie was appointed Director General, but the person really in charge was the Seleka member who was appointed deputy.[2029] In terms of the role Linguissara played in relation to the Seleka, the Chamber received evidence that he interceded with the Seleka on behalf of the population, and was himself targeted by the Seleka.[2030]

801. P-1970 recalled that Nouradine Adam was at the top of the chain of command of the police, and 'controlled absolutely everything, together with his deputy, Rakis'.[2031] P-0349 stated that Nouradine Adam also headed the entire gendarmerie, because the Minister of Defence General Mamour was not 'respected or obeyed by his [Mamour's] Seleka soldiers'.[2032]

(ii) Operational capacity of FACA and Presidential Guard

802. Nicolas Tiangaye stated that the defence and security forces did not have operational capacity to assume their duties, and everything related to defence was dominated by the Seleka.[2033] Benjamin Mallo testified that when the Seleka were in power in Bangui, the

[2027] P-2478: T-033, p. 57; P-0338: T-019, p. 22; P-1737: T-044, p. 32; P-2563: T-115, pp. 44-46. *See also* presidential order, CAR-OTP-2004-0814, at 0839.
[2028] P-0338: T-018, p. 34; P-1420: CAR-OTP-2040-0811, at 0835, para. 150; P-2328: T-130, p. 29; P-1004: CAR-OTP-2043-0536, at 0548, para. 92. The Chamber also received two presidential orders pertaining to his appointment. An order dated 29 May 2013 appointing Adoum Rakiss as Director General and an order dated 3 June 2013 changing the title of the post to Deputy Director General: presidential order, CAR-OTP-2004-1385, at 1444; presidential order, CAR-OTP-2004-1926, at 1927; certificate, CAR-OTP-2034-2704. *See also* addendum to P-0435's prior recorded testimony, CAR-OTP-00000620, at 000003-000004, referring to presidential order, CAR-OTP-2004-1926, at 1926-1927. Witnesses also recall him having a moustache and have identified him in photographs with Michel Djotodia: P-1970: CAR-OTP-2087-9396, at 9401, para. 20; P-1737: T-044, pp. 64-66, referring to photograph, CAR-OTP-2069-3225 (annotated version, CAR-REG-0002-0103); P-0338: T-018, pp. 52-53, referring to photograph, CAR-OTP-2094-1927 (annotated version, CAR-REG-0002-0030); P-2105: T-024, p. 61, referring to photograph, CAR-OTP-2069-3225 (annotated version, CAR-REG-0002-0041).
[2029] P-0787: CAR-OTP-2036-0410, at 0418-0419, para. 42.
[2030] P-0100: CAR-OTP-2027-2535, at 2542, 2554, 2556-2557, paras 40, 43, 114, 126-127, 133; P-2241: CAR-OTP-2092-3851, at 3957-3958, paras 34-36; P-2241: T-048, pp. 37-38. P-0349: CAR-OTP-2075-0812, at 0827, paras 78, 80; P-0349: T-096, p. 38; P-2563: T-115, pp. 47-49.
[2031] P-1970: CAR-OTP-2087-9396, at 9399, 9401, paras 13, 20. P-1970 stated that Rakiss stayed at the Police Directorate-General until the end of the Seleka regime, after which, Director General Linguissara ran the *Compagnie Nationale de Sécurité*: P-1970: CAR-OTP-2087-9396, at 9406, para. 41.
[2032] P-0349: CAR-OTP-2075-0812, at 0822-0823, para. 54.
[2033] P-0291: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-052-ENG, p. 4.

defence and security forces had no means to act, no weapons and no vehicles and many were living in hiding, while the Seleka were the 'lords of the city' and did as they pleased.[2034]

803. There is evidence that the Seleka took over Camp de Roux, where the FACA had been headquartered.[2035] In relation to those FACA members who returned to work, [REDACTED] testified that all of the battalions were initially grouped together at *École nationale d'Administration et de Magistrature* (the 'ENAM'),[2036] and after about six months they were deployed to MAMIKA because FOMAC forces were located next to it and could defend the soldiers if they were attacked by the Seleka.[2037] [REDACTED] stated that they were moved from MAMIKA to Camp BSS about two months later for security reasons, as the Seleka continued harassing and harming members of the FACA.[2038]

804. The Chamber also received evidence that a number of FACA members continued to be based at Camp de Roux as part of Michel Djotodia's presidential security.[2039] P-1967 stated that the relationship between the FACA Presidential Guards and the Seleka was one of mutual mistrust.[2040] P-1967 recalled that 'the FACA command had more of a

[2034] P-0338: T-018, p. 57.
[2035] P-1420 stated that 'Camp de Roux was full of Seleka militants and the FACA were not in charge there, as would have been the case in previous presidencies': P-1420: CAR-OTP-2040-0811, at 0829, para. 112. P-1967: CAR-OTP-2069-0498, at 0506-0509, paras 39-45, 50, referring to sketches, CAR-OTP-2069-0608 and CAR-OTP-2069-0609; P-1967: CAR-OTP-00036751, at 0002; P-2563: T-115, p. 52. Witnesses stated that Camp de Roux was a military base where the Presidential Palace was also located. *See* P-0358: CAR-OTP-2043-0433, at 0444-0445, paras 74, 85.
[2036] The Chamber notes P-2519's testimony to the effect that ENAM was the place where registrars for prisons were trained and was not a FACA base but he believed that the FACA were called to gather at ENAM because most FACA bases were occupied: P-2519: CAR-OTP-2127-9471, at 9475, para. 25. *See also* P-1762: CAR-OTP-2073-0568, at 0571, paras 17, 19; P-0291: T-062, p. 18, referring to press release issued by General Dolewaya, CAR-OTP-2070-0181, which appealed to the defence and security forces to regroup at designated locations including ENAM and MAMIKA.
[2037] [REDACTED].
[2038] [REDACTED].
[2039] Presidential order, CAR-OTP-2004-1385, at 1420-1421. [REDACTED] stated that General Issa Issaka and General Arda Hakouma had subordinates on 'the FACA side': [REDACTED]. *See also* [REDACTED], referring to [REDACTED], CAR-OTP-2069-0611. This list groups names of certain individuals together under the headings Presidential Guard and the FACA 'Etat-Major'; within the Presidential Guard, there are separate lists of those forming part of the '*Sécurité Rapprochée Cercle Rouge*' and '*Sécurité Présidentielle Cercle Bleu*'; listed under each 'circle' are names of Seleka commanders and FACA commanders grouped separately. Under '*Sécurité Rapprochée Cercle Rouge*', it lists 'Gnl. Arda, Gnl. Mahamat Ahmat, Col: Ramadane, Col: Atahir'; under the subheading 'FACA', it lists, *inter alia*, 'C.P.T. Barakpi, LT: Abdoulaye'; under '*Sécurité Presidentielle Cercle Bleu*', it lists 'Gnl. Issa Issaka Aubin Gnl. Mahamat Ahmat Col. Ramadan', with 'LT. Colonel Kamis Fotor Chef de Corps' listed under subheading 'FACA'; under 'FACA Etat-Major', the list mentioned Generals Tchimangoa, Dolewaya, and Galoutchi and Boumbayeke.
[2040] P-1967: CAR-OTP-2069-0498, at 0534, para. 161.

symbolic presence' at Camp de Roux at the time and that the Seleka constantly harassed and intimidated the Christian FACA officers.[2041]

(iii)Operational Capacity of the Security Forces

805. Witnesses recalled that some police officers resumed their duties following the coup d'état but that the situation was tense between the police officers and the Seleka members.[2042] [REDACTED] stated that approximately 15 career police officers would muster each day between Monday and Saturday at the Directorate-General under the command of 'a few career police commanders'.[2043] He testified that the police worked from 8:00 to 17:00, whereas the Seleka often continued their operations in the evening and at night.[2044] [REDACTED] stated that the police commanders distributed weapons and ammunitions at the start of the day and at the end of their shift they were put in vehicles and stored at the international forces base at M'Poko Airport.[2045] [REDACTED] stated that most of the police vehicles had been stolen by the Seleka but they had two vehicles with the word 'police' on them and Rakiss would provide fuel for the patrols.[2046]

806. [REDACTED] stated that Nouradine Adam wanted most of the patrols to be a mix of police and Seleka members, but that the police would sometimes patrol without the Seleka.[2047] [REDACTED] recalled that their 'muster' was always initially led by Nouradine Adam or by Rakiss, who would give orders to [REDACTED]'s superiors and tell them where they should patrol, sending them everywhere in Bangui, except Boy

[2041] P-1967: CAR-OTP-2069-0498, at 0533, paras 156-157. According to P-1967, the Muslim FACA Presidential Guards got along better with the Seleka ones as they were of the same religion and as some of them had also defected from François Bozizé's Presidential Guards to join the Seleka: P-1967: CAR-OTP-2069-0498, at 0534, para. 161. P-1967 stated that during this time, the FACA personnel would typically finish their shift early afternoon and go home, whereas the Seleka members would live on the base and control it, [REDACTED]. P-1967: CAR-OTP-2069-0498, at 0533, paras 156-158.
[2042] [REDACTED] stated that he was among those that returned to work, even though the 'climate was tense', as he needed his salary. He testified that whenever police officers made the journey between their homes and work, they would wear civilian clothes and walk in groups to avoid any risk that the Seleka would beat or kill them as the Seleka thought that anyone in uniform was a FACA member. *See* [REDACTED]. P-0435 stated that 'the Seleka acted as the police' and that many former police [REDACTED] did not return to work during this period as they were too afraid. P-0435 described being constantly worried [REDACTED] particularly when travelling to and from work given the abductions by the Seleka: P-0435: CAR-OTP-2017-0036, at 0052, paras 101-102. *See also* P-0547: T-012, pp. 46-47; P-2280: CAR-OTP-2135-3728, at 3731; P-2563: T-113, p. 11; P-1524: T-056, p. 22.
[2043] [REDACTED].
[2044] [REDACTED].
[2045] [REDACTED].
[2046] [REDACTED].
[2047] [REDACTED].

Rabe.[2048] [REDACTED] stated that sometimes, Nouradine Adam or Rakiss would go to the scene 'if any weapons or threats were involved'.[2049] [REDACTED] stated that when the Seleka patrolled with the career police, they were commanded by one or two Seleka colonels.[2050] [REDACTED] stated that the patrols aimed at keeping in check the Seleka's disorder, although as police officers, they were 'powerless against the Seleka' and could only 'act against the Seleka members' if there were Seleka on patrol with them.[2051] Nicolas Tiangaye testified that security was provided in 2013 by the Seleka and the police as well as the gendarmerie, but the 'dominant factor', the 'overriding force in security matters in the country' was the Seleka.[2052]

iii. Replacement of Nouradine Adam as Minister of Public Security

807. The evidence before the Chamber shows that Michel Djotodia replaced Nouradine Adam with Josué Binoua as Minister of Public Security on 22 August 2013 (immediately after the August Boy Rabe attack).[2053] P-1970 explained that he did not know exactly why Nouradine was replaced, but he guessed 'it was for incompetence and because of the mistakes he must have made'.[2054] Benjamin Mallo stated that, in his view, Nouradine Adam was replaced because of the multiple exactions that were being committed and his involvement and statements, which had 'instilled a feeling of rebellion in the non-Muslim community'.[2055] Benjamin Mallo surmised that Josué Binoua's appointment was an attempt to try to appease the tension.[2056]

808. According to [REDACTED] and [REDACTED], it was Nouradine Adam who asked Josué Binoua to take over as Minister.[2057] [REDACTED] also recalled that a few days before Nouradine Adam left the Ministry, a French police commander, [REDACTED],

[2048] [REDACTED]. [REDACTED] stated that while the Seleka did not talk to the police about the operations they were carrying out in Boy Rabe and kept that information 'top secret', he believed that it was Nouradine Adam who organised the operations, because as Minister of Public Security he was commander-in-chief: [REDACTED].
[2049] [REDACTED].
[2050] [REDACTED].
[2051] [REDACTED].
[2052] P-0291: T-060, p. 13.
[2053] P-0338: T-018, p. 54, referring to presidential order, CAR-OTP-2005-0369. P-1970 recalled a handover ceremony at the Directorate-General where Nouradine Adam addressed the police and the Seleka members who were there, introducing Josué Binoua as his replacement: P-1970: CAR-OTP-2087-9396, at 9405-9406, paras 39-40; addendum to P-1970's prior recorded testimony, CAR-OTP-00036896, at 0002.
[2054] P-1970: CAR-OTP-2087-9396, at 9405-9406, para. 39.
[2055] P-0338: T-018, p. 54.
[2056] P-0338: T-018, p. 54.
[2057] [REDACTED].

joked that there might be some changes there soon.[2058] [REDACTED] stated that [REDACTED].[2059] [REDACTED] understood from this that a new Chief of Staff would be appointed, which happened shortly after.[2060]

809. According to Nicolas Tiangaye, Nouradine Adam's replacement as Minister did not undermine his powers within the Seleka and that '[a]s a military chief, he [Nouradine Adam] remain[ed] someone who was pivotal in the organisation of the Seleka'.[2061] The Chamber received evidence that, on 22 August 2013, Michel Djotodia appointed Nouradine Adam as Director General of CEDAD,[2062] a security and intelligence service,[2063] which Nicolas Tiangaye, Jean-Jacques Demafouth and P-0664 described as a 'political police'.[2064] [REDACTED] and P-1004 stated that Nouradine Adam had a network of intelligence agents who provided him with intelligence on persons considered to be 'enemies', including former FACA, Anti-Balaka and those suspected of being in contact with François Bozizé.[2065]

d) Response to the commission of crimes

i. Response by the international community

810. UN reports affirm that 'the unconstitutional change of government in the Central African Republic was condemned by the international community as a whole'.[2066] It was reported that, while the African Union Peace and Security Council 'imposed sanctions including a travel ban on its leaders, and refused to recognize the self-appointed President', ECCAS

[2058] [REDACTED].
[2059] [REDACTED].
[2060] [REDACTED].
[2061] P-0291: T-062, pp. 60-61.
[2062] Presidential order: CAR-OTP-2005-0368; P-0349: CAR-OTP-2075-0812, at 0823, para. 58; P-0291: CAR-OTP-2034-0104, at 0117, 0119, paras 79, 97; P-0291: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-052, p. 5; P-0291: T-060, p. 13; P-0664: T-100, p. 12; P-0435: CAR-OTP-2017-0036, at 0064, para. 167; P-2105: T-025, p. 8. Multiple witnesses testified Nouradine Adam was in charge: P-0291: T-062, p. 60; P-1004: CAR-OTP-2043-0536, at 0544, para. 56; P-2328: CAR-OTP-2099-0165, at 0217, para. 268, draft translation: CAR-OTP-00000147, at 000053, para. 268; P-1289: CAR-OTP-2053-0359, at 0377, para. 105; P-2280: CAR-OTP-2135-3728, at 3737. *See also* P-0349: CAR-OTP-2075-0812, at 0823, para. 59.
[2063] Presidential order, CAR-OTP-2005-0375. P-1970: CAR-OTP-2087-9396, at 9406, para. 40; addendum to P-1970's prior recorded testimony, CAR-OTP-00036896, at 0002.
[2064] P-0291: CAR-OTP-2034-0104, at 0117, 0119, paras 79, 97; P-2328: CAR-OTP-2099-0165, at 0218, para. 275, draft translation: CAR-OTP-00000147, at 000054, para. 275; P-0664: T-100, pp. 8, 12. *See also* P-0291: T-60, p. 13.
[2065] [REDACTED]; P-1004: CAR-OTP-2043-0536, at 0544, 0546, paras 60, 71-72. *See also* P-0664: T-100, pp. 8, 12-13.
[2066] UNSG Report May 2013, CAR-D30-0004-0102, at 0103, para. 7; UNHCHR Report September 2013, CAR-OTP-2001-0172, at 0176, para. 11; UNHCHR Fact-Finding Mission Report, CAR-OTP-2034-0270, at 0272, para. 14.

took note of the appointment of Michel Djotodia as the Head of the Transition, but not as President.[2067] It was also reported that 'ECCAS, with the support of the international community, reaffirmed that the Libreville Agreements are the basis for transitional arrangements' and that ECCAS convened two Extraordinary Summits of Heads of State and Government in N'Djamena, on 3 and 18 April 2013.[2068]

811. Nicolas Tiangaye testified that Michel Djotodia reappointed him as Prime Minister on 26 March 2013, adding that this was done at the insistence of the ECCAS Heads of State that the 2013 Libreville Agreement[2069] be respected.[2070] Nicolas Tiangaye recalled that the ECCAS Heads of State insisted that a more representative National Transitional Council (a legislative body)[2071] be re-established.[2072] Official documentation shows that Nicolas Tiangaye, as Prime Minister, re-established the National Transitional Council on 13 April 2013, in which the Seleka did not hold the majority and which was composed of representatives, *inter alia*, from the Seleka, political parties, religious groups, women's organisations, youth organisations, CAR prefectures and the diaspora.[2073] The

[2067] UNSG Report May 2013, CAR-D30-0004-0102, at 0103-0104, paras 8, 15.
[2068] UNSG Report May 2013, CAR-D30-0004-0102, at 0103, paras 7, 9.
[2069] The Chamber recalls the relevant terms of the 2013 Libreville Agreement wherein it was agreed, *inter alia*, that a *Gouvernement d'Union Nationale* (the 'Government of National Unity') would be instituted for 12 months, comprising the presidential majority (headed by François Bozizé at the time of signing), the democratic opposition, the various politico-military movements party to this agreement, the Seleka and civil society: Article 2 of the 2013 Libreville Agreement, CAR-OTP-2054-1346, at 1347. It also provided that the Government of National Unity would be led by a prime minister, who would be a member of the opposition; this government could not be revoked by the President during the period of transition. The President was to guarantee the security of persons and goods. The Seleka forces were required to retreat from occupied cities and abandon armed action and armed members were to be cantoned in commonly agreed locations, under the supervision of MICOPAX. It also provided recourse, *inter alia*, to the ECCAS Heads of State if necessary to resolve differences in applying the terms of the agreement. *See* articles 3-4, 8, 13, 17, 20 of the 2013 Libreville Agreement, CAR-OTP-2054-1346, at 1347-1349.
[2070] P-0291: T-061, p. 46; P-0291: CAR-OTP-2034-0104, at 0116, para. 73. *See also* P-0291: T-062, p. 5. Presidential orders issued by Michel Djotodia, as the 'President of CAR, Head of State', reference two constitutional acts ('*l'Acte Constitutionnel*') dated 26 March 2013 concerning the provisional organisation of the State ('*Organisation provisoire des Pouvoirs de l'Etat*'). In a presidential order dated 26 March 2013, Michel Djotodia appointed Nicolas Tiangaye as Prime Minister and '*Chef du Gouvernement de transition*'. *See* presidential orders, CAR-OTP-2004-1597, at 1597-1604; CAR-OTP-2005-0380, at 0380. *See also* P-1737: T-044, p. 11; P-0349: CAR-OTP-2075-0812, at 0821, para. 47.
[2071] Nicolas Tiangaye noted that the National Transitional Council existed as early as 2003 and commented on a document signed by him on 13 April 2013 related to the convocation of an extraordinary session of the National Transitional Council in his capacity as the Prime Minister, CAR-OTP-2100-1832. Nicolas Tiangaye explained that the National Transitional Council in 2013 played the role of a true national assembly and this emanated from the 2013 Libreville Agreement which intended to ensure the proper functioning of the National Assembly and accorded special powers to the Prime Minister and limited the powers of the National Assembly prior to the fall of President Bozizé. In 2003, the National Transitional Council was an advisory body that did not have the power to deliberate. *See* P-0291: T-60, pp. 22-23. *See also* presidential order, CAR-OTP-2004-0814, at 0818 (referring to the presidential order dated 13 April 2013 creating and modifying the National Transitional Council).
[2072] P-0291: T-062, p. 5; P-0291: CAR-OTP-2034-0104, at 0116, para. 74.
[2073] Executive order, CAR-OTP-2100-1832, at 1837. *See also* P-0291: T-062, pp. 5-6.

UN Secretary General's report of May 2013 noted that this new council was established without prior consultation with national stakeholders and that the lack of transparency in the process had been criticised by opposition and civil society leaders.[2074] The report of the UNHCHR fact-finding mission to CAR noted that the National Transitional Council was subsequently reconstituted and expanded on 12 May 2013.[2075]

812. A presidential order dated 12 June 2013 shows that Michel Djotodia set up a '*Gouvernement d'Union Nationale et de Transition*' (the 'Government of National Unity and Transition'), which, in large part, confirmed the same persons linked to the Seleka previously appointed as ministers on 31 March 2013.[2076]

813. Nicolas Tiangaye stated that the Constitutional Charter for Transition was adopted on 18 July 2013.[2077] and that the membership of the National Transitional Council was approved on 26 July 2013.[2078] The evidence shows that Michel Djotodia was inaugurated as Head of State (of the Transition) on 18 August 2013.[2079]

814. Various reports of the UN Secretary General and the UNHCHR underscore the extent to which regional and international bodies were closely monitoring developments in CAR throughout 2013 and applying pressure in order to ensure the transition to a representative and inclusive political system, an end to human rights violations, and the restoration of security and public order.[2080] The report of the UN Secretary General of 3 May 2013

[2074] UNSG Report May 2013, CAR-D30-0004-0102, at 0104, paras 12-13.
[2075] UNHCHR Fact-Finding Mission Report, CAR-OTP-2034-0270, at 0273, para. 19.
[2076] Presidential order, CAR-OTP-2005-0343. The Chamber notes that by this presidential order, Michel Djotodia confirmed Mohamed Moussa Dhaffane as the Minister in charge of the Ministry of Water, Forests, Wildlife and Fisheries, the Environment and Ecology but no longer the Ministry of Environment and Ecology, which was put under Paul Doko. Further, Abdoulaye Hissene was confirmed as Minister in charge of the Ministry of Youth, Sports but no longer the Ministry of Arts and Culture, which was put under Bruno Yapande.
[2077] P-0291: CAR-OTP-2034-0104, at 0116, para. 74. Nicolas Tiangaye stated that a draft text for the constitutional charter for the transition was drawn up by Central African legal experts with support from foreign experts and was adopted by the entities involved in the transition process. He affirmed that it was an expression of the will of all the entities involved in the transition process and that, once it was ultimately adopted, this charter made it possible to manage the transition period. *See* P-0291: T-062, pp. 29-31, referring to official bulletin, CAR-OTP-2004-0794, at 0797 (special edition of the Official Journal, official bulletin entitled "Law Bearing Upon the 21 Constitutional Charter for the Transition").
[2078] P-0291: T-061, p. 66-67, referring to presidential order, CAR-OTP-2005-0384.
[2079] P-0291: CAR-OTP-2034-0104, at 0116, para. 74; UNHCHR Report September 2013, CAR-OTP-2001-0172, at 0176, para. 10. The Chamber received photographs of the inauguration ceremony and the celebration thereafter, CAR-OTP-2069-2823, CAR-OTP-2069-2867, CAR-OTP-2069-2828, CAR-OTP-2069-2833, CAR-OTP-2069-2835, CAR-OTP-2069-2847, CAR-OTP-2069-2852, CAR-OTP-2069-2857, CAR-OTP-2069-2900, CAR-OTP-2069-2903, CAR-OTP-2069-2904, CAR-OTP-2069-2907; P-1967: T-094, pp. 39-44.
[2080] UNSG Report May 2013, CAR-D30-0004-0102, at 0103-0105, 0112-0113, paras 9-11, 14-21, 61-68; UNHCHR Report September 2013, CAR-OTP-2001-0172, at 0188-0190, paras 91-96; UNSG Report December

described the situation in CAR as 'horrifying and intolerable' and called upon the Security Council to consider sanctions and other steps against those who had committed gross human rights violations.[2081]

815. UN reports show that the following peacekeeping missions were augmented or deployed in CAR during 2013: (i) ECCAS increased the size of its peacekeeping force (MICOPAX) from 700 to 2,000 troops around April 2013; (ii) the African Union Peace and Security Council established the African-led International Support Mission for CAR, with an authorised strength of 3,500 military and police personnel, which comprised existing MICOPAX contingents and contingents provided by other member states on 19 July 2013; and (iii) France launched Operation Sangaris in December 2013, which deployed 1,600 troops in support of MICOPAX.[2082]

ii. Protests

816. Multiple witnesses mentioned protests by the people of Bangui against crimes committed by the Seleka.[2083] [REDACTED] testified that Nouradine Adam 'issued an order prohibiting all protests'.[2084] P-0884 described a large protest on the tarmac of the airport by people fleeing the Seleka attack of 20 August 2013, which gained international media attention and forced a response from the Seleka leadership.[2085]

iii. Response by the Seleka

a. Discipline Within the Seleka

817. P-2563 stated that Michel Djotodia ordered that uncontrolled members of the Seleka should be disarmed, and that Michel Djotodia and Nouradine Adam ordered that those

2013, CAR-OTP-2001-0329, at 0330, para. 6. The evidence shows that ECCAS established an International Contact Group to help mobilise support from the international community: UNSG Report May 2013, CAR-D30-0004-0102, at 0104, para. 10.

[2081] UNSG Report May 2013, CAR-D30-0004-0102, at 0112, para. 59; UNHCHR Report September 2013, CAR-OTP-2001-0172, at 0188, para. 89.

[2082] UNSG Report May 2013, CAR-D30-0004-0102, at 0104, 0108, paras 10, 35; UNHCHR Fact-Finding Mission Report, CAR-OTP-2034-0270, at 0273, para. 22; UNHCHR Report September 2013, CAR-OTP-2001-0172, at 0176, para. 12; UNSG Report December 2013, CAR-OTP-2001-0329, at 0329-0330, para. 4. *See also* P-0037: CAR-D33-0015-4492, at 4495-4496.

[2083] P-0100: CAR-OTP-2027-2535, at 2556, paras 125, 129; P-0529: CAR-OTP-2051-0159, at 0168, para. 55; P-0435: CAR-OTP-2017-0036, at 0061, para. 148; P-0882: CAR-OTP-2032-0654, at 0659-0660, paras 30-31; P-1180: CAR-OTP-2043-0483, at 0495, para. 80.

[2084] [REDACTED].

[2085] P-0884: CAR-OTP-2080-1678, at 1683-1684; P-0884: CAR-OTP-2072-1616, at 1641-1643; P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-055-CONF, pp. 18-20.

who engaged in looting should be 'seriously punished'.[2086] P-0349 recalled public statements by Michel Djotodia conveying the message that the Seleka should not terrorise the population but rather protect them and indicating that Seleka who forcibly stole from people should be punished.[2087] P-2563 stated that Michel Djotodia would gather Seleka members in the Camp de Roux compound and tell them not to misbehave, and that some (but not all) generals who were present in the Camp would attempt to implement what Michel Djotodia had said, adding that some Seleka members would carry out activities 'behind his back' which were not aligned with what he said.[2088]

818. The Chamber heard evidence that Seleka members were disciplined and detained at the OCRB,[2089] CEDAD and Ngaragba prison. [REDACTED] recalled that a Seleka member and his friend were detained at CEDAD for allegedly stealing from people with force, noting that one day the Seleka took both men away and when only one returned, he told [REDACTED] that the Seleka had killed the Seleka member.[2090] [REDACTED] also testified that a commander at CEDAD was killed and a captain severely beaten because the Seleka leadership found out that they were involved in extorting money from families.[2091] P-2263 stated that he saw some Seleka Colonels detained in Ngaragba prison and heard from the guards that one of them was arrested because he killed people on the Boali road.[2092] P-2263 testified that this Seleka Colonel was released and that he heard that the Colonel went back to his former post.[2093] P-2519 testified that a civilian by the name of Steve from Gobongo who joined the Seleka was detained and that P-2519 heard that he was subsequently killed, and that the reason was because he was causing trouble to people in his neighbourhood and was accused by the Seleka of defaming them through his actions.[2094]

819. P-1970 testified that Nouradine Adam once sent some Seleka members to arrest Colonel Mahamat Saleh because he and his men were terrorising people in the neighbourhood

[2086] P-2563: T-115, pp. 8-9, 23-24, 68, referring to CAR-OTP-2118-2937, at 2940-2941.
[2087] P-0349: CAR-OTP-2075-0812, at 0819, para. 33; P-0349: T-096, pp. 22-23.
[2088] P-2563: T-115, pp. 52-53. *See also* P-2563: T-115, pp. 8-9.
[2089] *See* below para. 1084.
[2090] [REDACTED]. [REDACTED] also noted that another Seleka member was detained at CEDAD for using his weapon to shoot and kill a detainee as he attempted to escape CEDAD, and Mahamat Saleh was detained because he had abandoned his post without a replacement: [REDACTED]. *See also* [REDACTED].
[2091] [REDACTED].
[2092] P-2263: CAR-OTP-2091-3074, at 3085, paras 44-45.
[2093] P-2263: CAR-OTP-2091-3074, at 3085, para. 44.
[2094] P-2519: CAR-OTP-2127-9471, at 9481-9482, paras 71-73.

with gunfire when they made too much noise in front of his compound.[2095] P-1970 explained that Saleh was arrested and taken to the OCRB, where he believed that he stayed for two days before being released.[2096] P-1970 stated that only the Seleka could arrest other Seleka and that the police could not arrest armed Seleka, but could only 'dissuade' them from committing crimes.[2097]

820. P-2563 testified that people who claimed to be Seleka members were imprisoned because they had committed exactions, held people up and stolen their possessions.[2098] According to P-2563, a number of badly disciplined Seleka members 'were beaten and put underground for two days' and 'after heads came from Camp de Roux and they carried out negotiations and then they were released'.[2099] In relation to others, P-2563 testified that they were put in prison for a period of time and they were later released and resumed their activities.[2100] The UNHCHR fact-finding mission to CAR noted with concern that an estimated number of 80 'uncontrollable' Seleka soldiers detained at SRI who had allegedly committed crimes against civilians or other Seleka members were to be transferred to military training camps.[2101] It noted that the authorities did not intend to bring them to justice and that their detention seemed 'to be a way to control their acts and absorb the streets' reactions to abuses and breaches they have been committing'.[2102]

821. The Chamber received evidence that justice was selective and Seleka were sometimes punished because their victims were persons of importance and/or were able to leverage personal connections with higher-ranked Seleka members.[2103] Similarly, witnesses' accounts show that Bangui's citizens were able to obtain protection from Seleka abuses

[2095] P-1970: CAR-OTP-2087-9396, at 9402, para. 25.
[2096] P-1970: CAR-OTP-2087-9396, at 9402, para. 25.
[2097] P-1970: CAR-OTP-2087-9396, at 9402, para. 25.
[2098] P-2563: T-115, pp. 22-23.
[2099] P-2563: T-115, p. 62. The Chamber understands P-2563's testimony in this regard to refer to a particular Colonel who looted a supermarket owned by Lebanese people: P-2563: T-113, pp. 24-25, 41.
[2100] P-2563: T-115, p. 62.
[2101] UNHCHR Fact-Finding Mission Report, CAR-OTP-2034-0270, at 0287, para. 85.
[2102] UNHCHR Fact-Finding Mission Report, CAR-OTP-2034-0270, at 0287, 0302, paras 85, 160.
[2103] P-0787: CAR-OTP-2036-0410, at 0429, paras 91, 94. For example, P-1420 stated that Nouradine Adam came to Base 124 once to search for the stolen vehicle of François Bozizé's former Minister of Justice Findiro (who lived at Cite ASECAN next to the Ledger Hotel and remained an important personality even if no longer part of the Government). P-1420 stated that an average citizen would not have been able to retrieve his vehicle in this way, but that, in this case, Nouradine Adam found the vehicle in Base 124, returned it to its owner and imprisoned the Chadian Seleka militant who took it. *See* P-1420: CAR-OTP-2040-0811, at 0820, para. 53. P-0881 stated that a Seleka General ordered a Colonel who was living in Ngaragba to move out of the area because he was suspected of involvement in executions, illegal detentions and other crimes. The owner of a company whose property was damaged by the Seleka Colonel's men contacted a Seleka General whom he knew and the Seleka General intervened to resolve the situation. *See* P-0881: CAR-OTP-2032-0682, at 0690, 0698, paras 49-54, 111.

if they had connections with other Seleka members or by paying the Seleka to provide such protection.[2104] In Jean-Claude Sophil's experience, the Seleka who were imprisoned or killed were low-ranking individuals with no personal relationships with senior Seleka, and somebody had paid other Seleka to punish them.[2105] Jean-Claude Sophil stated that Colonels and Generals were immune from any process and if low-ranking Seleka members stole a car but provided it to their general or colonel, then they were also immune.[2106] He gave an example of an occasion when a Colonel or a General brought a stolen car to a garage, where it was recognised by its owner who reported this at the OCRB.[2107] He stated that they (the police) went and seized the car, and the colonel came to complain about it and said that even the car that Djotodia is driving is one that he had stolen for him, and that all the Seleka cars had been stolen.[2108] He testified that the Presidency later ordered him to release the vehicle back to the Colonel.[2109]

822. P-1967 described discipline in Camp de Roux as being focussed on gaining control of high-value looted goods, and testified that Christian Seleka were often targeted because many of the Muslim Goula Seleka considered that they were not equally entitled to the spoils of war.[2110]

823. The Defence argues that some of the rogue individuals responsible for violence during the August operation in Boy Rabe were prosecuted and sentenced, referring in this regard to two newspaper articles and one NGO report.[2111] Consistent with the Chamber's general approach to such evidence, the Chamber does not consider these newspaper and

[2104] For example, [REDACTED]. P-1429 stated that [REDACTED] called a high-ranking Seleka officer whom [REDACTED] knew to ask him for help and that some Seleka soldiers came to secure [REDACTED] house and, in doing so, protected his house too. P-1429 testified that he subsequently [REDACTED]. *See* [REDACTED]; P-1429: CAR-OTP-2049-0166, at 0170, 0177-0178, paras 19, 73-77. *See also* P-2478: CAR-OTP-2107-8835, at 8846, para. 40; P-0435: CAR-OTP-2017-0036, at 0060-0061, para. 145.
[2105] P-0787: CAR-OTP-2036-0410, at 0429, para. 91.
[2106] P-0787: CAR-OTP-2036-0410, at 0430, para. 94.
[2107] P-0787: CAR-OTP-2036-0410, at 0430, para. 95.
[2108] P-0787: CAR-OTP-2036-0410, at 0430, para. 95.
[2109] P-0787: CAR-OTP-2036-0410, at 0430, para. 95.
[2110] P-1967: CAR-OTP-2069-0498, at 0510, paras 56-57
[2111] Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 117, referring to newspaper articles, CAR-D33-0014-1989, CAR-D33-0014-1997, FIDH report, CAR-OTP-2001-2890. Although the Defence does not specify the relevant part of the FIDH report cited, the Chamber takes note of page 2934, where it is noted: 'after the fact-finding mission, the FIDH was informed that on 30 August 2013, trial opened for 24 detainees, members of the Seleka who stood accused of pillaging and degrading property, illegally obtaining property, acts that compromise security and incite hate of the institutions of the Republic, and acts committed during the Boy-Rabe killing on 20 August 2013. These proceedings must be hailed, although they were started after the international community had protested against the state of impunity for the most serious crimes committed in the CAR and are far from corresponding to the level of legal action required to satisfactorily deal with the scale of exactions committed in the country.'

NGO reports to have probative value in relation to the alleged prosecution of Seleka members subsequent to this attack.[2112]

b. Handling of Complaints by Nouradine Adam

824. There is evidence that the Ministry of Public Security received complaints from members of the public about the commission of crimes by Seleka members during the relevant time. [REDACTED] testified that staff at the Ministry of Public Security would summarise the complaints they received about the actions of the Seleka and compile them in lists, which were signed by Nouradine Adam and sent to the Commander of the UN Mission in Bangui ([REDACTED]).[2113] [REDACTED] indicated that complainants would be directed to BINUCA with the reference number and that sometimes they did get their property back.[2114]

825. [REDACTED] was not aware of any measures Nouradine Adam took or any investigations being carried out in response to complaints, but recalled that he 'issued an order prohibiting all protests' and prohibiting motorbikes from circulating after 18:00, because many crimes were committed by people who used motorbikes to escape.[2115] [REDACTED] confirmed that for about a month, towards the middle of the Seleka government, they had to carry out night patrols to enforce a motorbike curfew that had been introduced by presidential order.[2116] P-1004 recalled that there were many complaints from the population about armed robberies being committed by Seleka militants located at Base 114, and that, in response to these complaints, he was transferred to [REDACTED].[2117] He stated that the Seleka at Base 114 were scared of them because they 'belonged to the Minister of Internal Security, General Nouradine'.[2118] [REDACTED] also recalled seeing Nouradine Adam shout at and hit some Seleka members who had looted or committed other crimes, but did not know whether Nouradine Adam 'formally disciplined the Seleka beyond yelling at them and hitting them'.[2119]

[2112] *See* above paras 319-320.
[2113] [REDACTED].
[2114] [REDACTED].
[2115] [REDACTED].
[2116] [REDACTED].
[2117] P-1004: CAR-OTP-2043-0536, at 0542-0543, paras 46-49.
[2118] P-1004: CAR-OTP-2043-0536, at 0543, para. 48.
[2119] [REDACTED]. *See also* [REDACTED].

826. [REDACTED] stated that the Ministry received communications from local and international NGOs requesting meetings with Nouradine Adam in order to raise the issue of the crimes being committed, but he refused to address them.[2120] [REDACTED] recalled that UNICEF sent an official request to the Minister of Public Security asking the Seleka to stop using child soldiers, and that this was complied with.[2121] The Chamber notes that [REDACTED] does not further explain [REDACTED] that the Seleka stopped using child soldiers. The fact-finding mission deployed under the mandate of the UNHCHR noted that, at least as of the end of July/beginning of August 2013, they observed the presence of child soldiers amongst the Seleka, some of whom were visibly instructed to claim to be adults.[2122] The fact-finding mission indicated that they raised 'the urgency of granting an unimpeded access to child protection actors to visit military barracks for screening purposes in a more systematic manner' with the Minister of Public Security (Nouradine Adam), but despite his promises to cooperate, access to Camp Béal (the biggest in Bangui) and Camp de Roux was restricted.[2123] According to the UNHCHR report, Nouradine Adam informed the fact-finding mission that visited CAR between 20 June and 11 July 2013 that the Seleka had 'not resorted to actions of reckoning and settling scores, except in rare cases of violations, which [had] been addressed'.[2124]

827. Benjamin Mallo testified that Nouradine Adam declared on the radio after a protest that the non-Muslims who were protesting against the Seleka had less value than a chicken.[2125]

828. In contrast, the Chamber received evidence that Josué Binoua made efforts to end the Seleka's criminality when he took over as Minister of Public Security. P-1970 testified that Josué Binoua advised the police and the Seleka that he 'had come to rectify the situation'.[2126] [REDACTED], for example, that: (i) Josué Binoua would have security meetings every morning where the Director of Surveillance of the Territory and the Director of Service of Police Administration would deliver written security briefings, including information such as when people had been abducted or killed, and that every Monday the Head of Service would give him a round-up of what had happened during

[2120] [REDACTED].
[2121] [REDACTED].
[2122] UNHCHR Fact-Finding Mission Report, CAR-OTP-2034-0270, at 0302, para. 160.
[2123] UNHCHR Fact-Finding Mission Report, CAR-OTP-2034-0270, at 0302, para. 164.
[2124] UNHCHR Fact-Finding Mission Report, CAR-OTP-2034-0270, at 0275, para. 32.
[2125] P-0338: T-018, p. 54.
[2126] P-1970: CAR-OTP-2087-9396, at 9405-9406, para. 39.

the week;[2127] (ii) he would go out on patrols with his own team of military officers and policemen and would arrest Seleka committing crimes and people who were armed and not complying with the ceasefire;[2128] (iii) he would filter the requests for passport applications much more carefully to ensure passports went to Central African citizens, and he suspended the practice of issuing *laissez-passer* for stolen vehicles and would direct them to the Ministry of Transport to pay for proper permits and register the vehicles first.[2129] [REDACTED] that Josué Binoua tried very hard to stop crimes and that the Seleka opposed him for this, and remarked that it was difficult to understand 'why, when Nouradine had so much authority over the Seleka, he never went and stopped their crimes in this way'.[2130] [REDACTED] testified that these changes made the Seleka very angry, and they attacked and looted Josué Binoua's house in the city centre around the time of the December 2013 Anti-Balaka attack on Bangui, accusing him of having weapons that he was plotting to use against the Seleka, and that he had to flee to M'Poko Airport for safety.[2131]

c. Meetings of Seleka Leaders with Community Leaders and Informal Responses

829. [REDACTED] Michel Djotodia gave instructions for a committee of about 12 Central African officials to be set up to facilitate 'mediation between the population of Boy Rabé and the Seleka government' and to appoint a Chief of Staff from a FACA background, as well as a deputy from a Seleka background to enable the army to control the misconduct of the Seleka soldiers.[2132] [REDACTED], the committee met about six times at the Ledger Hotel, and Michel Djotodia informed the committee that France had asked him to appoint General Dolewaya as Chief of Staff.[2133]

830. [REDACTED] recalled attending a meeting between Michel Djotodia and Bangui's Chefs and Mayors at which Michel Djotodia distributed boxes of money for reparations to victims.[2134]

[2127] [REDACTED].
[2128] [REDACTED].
[2129] [REDACTED].
[2130] [REDACTED].
[2131] [REDACTED].
[2132] [REDACTED].
[2133] [REDACTED].
[2134] [REDACTED].

831. [REDACTED] recalled that, on one occasion, President Denis Sassou-Nguesso of the Republic of the Congo[2135] came to Bangui and met with Michel Djotodia and community representatives.[2136] [REDACTED] testified that, after this meeting, due to intense public pressure, Michel Djotodia asked FOMAC's Congolese soldiers to remove the two Seleka bases in Boy Rabe (at Ngaïssona's property and at Carting).[2137]

832. [REDACTED] stated that members of the public (mostly Christians) would [REDACTED] complain to Nouradine Adam about the actions of the Seleka and that sometimes Nouradine Adam would [REDACTED].[2138] [REDACTED] that Nouradine Adam 'would get angry or annoyed and would speak in Arabic, saying it's not good that the Seleka would kill everyone'.[2139]

833. [REDACTED] described a meeting between Nouradine Adam, Dhaffane, Moussa and civilian representatives at which the Seleka leaders made speeches and gave out their phone numbers.[2140] According to [REDACTED], there were many vehicles outside containing looted goods and the Seleka arrived at the meeting bearing arms.[2141] [REDACTED] testified that the civilian representatives were afraid for their lives.[2142]

834. According to [REDACTED], Michel Djotodia told them at one of these meetings that, as the President of the Republic, 'he was going to try to re-establish peace and asked the Chefs to help him calm things down'.[2143] He testified that they met with Michel Djotodia and complained about the Seleka's treatment of the population a couple of times in 2013, but the Seleka 'continued committing crimes and not much changed until they finally lost power and left the government'. [2144]

[2135] The Chamber notes that President Sassou-Nguesso was appointed as mediator by ECCAS in the peace talks that led to the 2013 Libreville Agreement: UNHCHR Fact-Finding Mission Report, CAR-OTP-2034-0270, at 0271, para. 9.
[2136] [REDACTED].
[2137] [REDACTED].
[2138] [REDACTED].
[2139] [REDACTED].
[2140] [REDACTED].
[2141] [REDACTED].
[2142] [REDACTED].
[2143] [REDACTED].
[2144] [REDACTED].

d. Confidence-building Measures, Disarmament and Confinement of Seleka Members to Barracks

835. The Chamber recalls the terms of the 2013 Libreville Agreement that required, *inter alia*, that the Seleka forces retreat from occupied cities and abandon armed action and that armed members be confined in commonly agreed locations, under the supervision of MICOPAX.[2145] P-0349 testified that the international community called for trust or confidence-building measures to ensure discipline amongst the Seleka, including the confinement of Seleka members to barracks following the takeover of Bangui.[2146]

836. Jean-Jacques Demafouth testified that the UN had suspended the direct support programme for demobilisation following the Seleka takeover of Bangui, but was very interested in the DDR process.[2147] According to Jean-Jacques Demafouth, the UN representative in CAR advised Michel Djotodia to set up a DDR process and, in this context, Djotodia appointed him (Jean-Jacques Demafouth) as national coordinator of the DDR programme on 6 May 2013.[2148]

837. Nicolas Tiangaye testified that he called for the disarmament of Seleka soldiers and requested the intervention of international forces to protect the civilian population in addresses delivered at UN Headquarters in March 2013, May 2013 and September 2013.[2149] According to Nicolas Tiangaye, it was difficult for him to attend the General Assembly in September 2013 because Michel Djotodia did not want him to go and the President of ECCAS had to intervene to ask Djotodia to let him travel.[2150] Nicolas Tiangaye recalled trying to alleviate the situation by calling on the international community to send troops not only to disarm the Seleka but also to ensure that the

[2145] Articles 13, 17 of the 2013 Libreville Agreement, CAR-OTP-2054-1346, at 1348; [REDACTED].
[2146] P-0349: T-096, pp. 11-14.
[2147] P-2328: CAR-OTP-2099-0165, at 0212, para. 255, draft translation: CAR-OTP-00000147, at 000048, para. 255; P-2328: T-129, pp. 37-38.
[2148] P-2328: CAR-OTP-2099-0165, at 0217-0218, para. 272, draft translation: CAR-OTP-00000147, at 000053-000054, para. 272. Jean-Jacques Demafouth had previously been involved in demobilisation programmes in CAR: P-2328: CAR-OTP-2099-0165, at 0215, paras 258-259, draft translation: CAR-OTP-00000147, at 000051, paras 258-259; P-2328: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-049-CONF-ENG, pp. 66-67.
[2149] P-0291: CAR-OTP-2034-0104, at 0118, para. 90; P-0291: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-051-CONF-ENG, pp. 18-21, 56; Nicolas Tiangaye's speech to the UN General Assembly, CAR-OTP-2101-1848.
[2150] P-0291: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-051-CONF-ENG, p. 56.

republican order was respected in the country.[2151]

838. P-2563 testified that Michel Djotodia set up a military police within the Seleka to restore safety and security to Bangui, disarm unruly Seleka members and ensure that the FACA would not be targeted.[2152] P-0349 testified that the military police 'had the dual purpose of dealing with the abuses' committed by the various Seleka groups and conducting operations on Nouradine Adam's instructions.[2153] P-2563 confirmed that the military police's instructions came from Nouradine Adam.[2154] P-2563 stated that there were between 200 and 300 members within the military police operating from Camp Béal.[2155] P-2563 testified that the military police was set up two or three weeks after the Seleka took control of the country and was dismantled about a month or a month and a half later, at which point its responsibilities were assigned to leaders in different locations and mixed police/Seleka patrols were set up.[2156]

839. The Chamber received in evidence an official instruction issued on 15 May 2013 by Nouradine Adam to all Seleka members calling on them to immediately cease their occupation of private houses and properties and to relocate to the barracks reserved for them, namely Camp Kassai, Camp Béal, Camp de Roux, PK 12, PK 09 and Berengo.[2157] The Chamber notes that the Defence also refers to a press release dated 3 April 2013 calling on Seleka members to return to their respective barracks and advising those involved in looting, vandalism and acts of violence and abuse to immediately stop their activities.[2158] The Chamber notes that the document in question is an unsigned, handwritten document and that there is no information available regarding the context of its creation and no indication that it was ever issued to the public. The Chamber further notes that, in the bar table motion through which the document was submitted, the

[2151] P-0291: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-053-ENG, pp. 5-6.
[2152] P-2563: T-115, pp. 7-10. *See also* P-2563: T-113, p. 5. P-1263 recalled hearing a radio announcement following the coup d'état in which Michel Djotodia stated that there were Seleka members who were out of control and he was going to set up teams of people or a committee to 'monitor them': P-1263: T-105, p. 45.
[2153] P-0349: CAR-OTP-2075-0812, at 0822, para. 53.
[2154] P-2563: T-112, pp. 39-40; P-2563: T-113, p. 6. [REDACTED] testified that he was given orders not to brutalise the population already during the Seleka advance on Bangui and told that those who would behave badly would have to respond or be held accountable: [REDACTED].
[2155] P-2563: T-112, p. 40.
[2156] P-2563: T-115, pp. 16-17. *See also* P-1737: T-044, pp. 20-21; P-1737: T-045, pp. 49-50; P-0349: CAR-OTP-2075-0812, at 0822, para. 53.
[2157] Official statement, CAR-OTP-2034-2352. [REDACTED], at number 188 of 15 May 2013.
[2158] Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 86; Closing Statements, T-141, p. 42, referring to handwritten document titled 'Press release', CAR-OTP-2034-2272.

Defence itself observed that the document was handwritten and unsigned and that this could raise questions as to its authenticity.[2159] These issues have not been addressed or resolved by the parties. In these circumstances, the Chamber does not attribute any probative value to this document.

840. A UNHCHR report noted that, on 1 July 2013, MICOPAX supported the 'transitional government' in launching 'the disarmament and cantonment of Seleka soldiers with a view to re-establishing security and public order in the country'.[2160] A report dated July 2013 and signed by Nicolas Tiangaye stated that the operation to disarm ex-combatants and uncontrolled Seleka and militias of the former regime started on 1 July 2013 and was to be carried out by a mixed team composed of disciplined members of the Seleka, the gendarmerie, the police and FOMAC.[2161] The report stated that a technical committee had been set up to coordinate operations, that joint patrols were being conducted across the city and that any person (civilian or military) caught in possession of weapons or equipment should unconditionally return them to the patrol team.[2162] As regards the confinement of Seleka members to barracks, this report stated that 4,802 ex-Seleka combatants had been grouped together and confined in various location (Kassaï, Kolongo, Berongo, Bria, Bossembele).[2163] Jean-Jacques Demafouth testified that the centre in Berengo hosted members of the Seleka with about 2,000 or 3,000 Seleka confined there 'in the beginning'.[2164] P-0882 stated that the Seleka needed people with a military background to train their recruits, so they started recruiting FACA members to train Seleka members.[2165]

841. According to P-0349, the measures to confine Seleka members to barracks were not

[2159] Annex to First Defence Bar Table Application, ICC-01/14-01/21-966-Conf-AnxA, p. 73, item 109.
[2160] UNHCHR Report September 2013, CAR-OTP-2001-0172, at 0188, para. 89.
[2161] Report, CAR-OTP-2101-2134, at 2135; P-0349: T-096, pp. 17-19, referring to *procès-verbal*, CAR-OTP-2005-2962, at 2979. *See also* P-0349: CAR-OTP-2075-0812, at 0821, paras 48-49. P-2563 confirmed that efforts were made by Michel Djotodia to keep Seleka in Bangui confined to barracks in places like the RDOT, Camp Béal, and Camp Kassai: P-2563: T-115, p. 11.
[2162] P-0291: T-062, p. 19, referring to report, CAR-OTP-2101-2134. P-1737 also stated that a commission was set up at a specific time to disarm Seleka soldiers and that a call was launched to all 'combatants asking them to get rid of their military uniforms if they were not in service' and that the 'press release was addressed to everybody, including the Seleka soldiers'. P-1737 stated that, after the press release was issued, the relevant service started patrols both day and night to find uncontrolled soldiers who bore weapons. *See* P-1737: T-045, pp. 48-49.
[2163] Report, CAR-OTP-2101-2134, at 2135.
[2164] P-2328: T-129, pp. 36-37, referring to video, CAR-D33-0014-1394, from 16:50 to 17:45, translated transcript, CAR-D33-0014-1404; P-2328: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-046-CONF-ENG, p. 52.
[2165] P-0882: CAR-OTP-2032-0654 at 0668-0669, paras 91, 96. *See also* P-2519: CAR-OTP-2127-9471, at 9475, paras 21-22.

successfully implemented.[2166] P-2105 confirmed that the military police attempted to disarm Seleka members who were terrorising the local population, but that these efforts were unsuccessful as they refused to surrender their weapons in the absence of a normal disarmament and demobilisation programme.[2167] Jean-Jacques Demafouth explained that the disarmament process was impossible because the Seleka systematically refused to be confined to barracks as their main aim was to loot and they did not respect the authorities.[2168] The UN High Commissioner for Human Rights reported in September 2013 that '[w]hile a number of camps in Bangui, including the Béal and Berengoto camps, served for the cantonment of Séléka soldiers, the mission was not given access to the camps and was unable to obtain from the authorities information on the exact number of Séléka soldiers disarmed and cantoned in these camps'.[2169]

842. The Chamber also notes the evidence set out above showing that efforts were made to train and integrate a number of Seleka members into the FACA in November 2013.[2170] The evidence provided by P-2563 shows that persons were identified for integration into the FACA under Michel Djotodia in 2013 but that this decision was not implemented.[2171]

843. There is also evidence of an initiative to return stolen goods piled up at Sapeurs-Pompiers and that there was an announcement on the radio asking people to go there if they wanted to reclaim their stolen property.[2172] Jean-Jacques Demafouth testified that every day there was a crowd outside Moussa Assimeh's camp to claim their stolen property.[2173] P-1524 stated that he went there and saw people paying for the return of their property, but could not find his motorbike which the Seleka had stolen.[2174] According to P-1167 and P-2105,

[2166] P-0349: T-096, p. 14. This testimony is supported by documentary evidence of a complaint regarding the Seleka's continued occupation of private commercial premises in early June 2013, CAR-OTP-2034-2304, which P-0435 [REDACTED]: addendum to P-0435's prior recorded testimony, CAR-OTP-00000620, at 000004.
[2167] P-2105: T-027, pp. 11-12. For example, a Seleka member recalled an attempt by a disarmament team under the command of Mahamat Said to disarm and arrest Seleka allegedly carrying out abuses and looting, which resulted in two people dying after an exchange of fire. *See* [REDACTED].
[2168] P-2328: T-129, pp. 33-34.
[2169] UNHCHR Report September 2013, CAR-OTP-2001-0172, at 0188, para. 89.
[2170] *See* above para. 789.
[2171] P-2563: T-115, pp. 56-59; *see also* decision of Minister of Defence dated 17 October 2013, CAR-OTP-2100-0825, and judgment dated 5 September 2018, CAR-OTP-2111-0213.
[2172] P-1524: CAR-OTP-2062-0468, at 0485, para. 87; P-1524: T-057, pp. 28-29; P-2042: CAR-OTP-2074-0002, at 0008, para. 27.
[2173] P-2328: CAR-OTP-2099-0165, at 0222, para. 308, draft translation: CAR-OTP-00000147, at 000058, para. 308.
[2174] P-1524: CAR-OTP-2062-0468, at 0485-0486, para. 87; P-1524: T-057, pp. 28-29.

people had to bring documentation to prove their ownership of the stolen goods.[2175] P-2042 stated that after the Seleka left Sapeurs-Pompiers, some people found their low value goods at the base.[2176]

5. Legal findings

a) Existence of an attack directed against a civilian population

844. Based on the factual findings set out above, the Chamber is satisfied that the Seleka's mistreatment of the civilian population in the aftermath of the takeover of Bangui constituted an 'attack' meaning a 'course of conduct involving the multiple commission of acts' referred to in article 7(1) of the Statute and that this attack was directed against a civilian population.

845. In this regard, the Chamber notes the campaign of violence and persecution to which the Seleka subjected part of the population of Bangui, comprising frequent and widespread acts of killing, rape, mistreatment, and unlawful imprisonment or other severe deprivation of physical liberty.[2177] The Chamber notes that the Seleka extensively looted homes and that such looting was carried out at the same time and in connection with the other crimes mentioned above.[2178] Accordingly, and given its conclusions in relation to the discriminatory target of these acts set out in the following paragraph, the Chamber considers the extensive looting that took place in Bangui to have been part of a campaign of persecution within the meaning of article 7(1)(h) of the Statute. The Chamber also notes the attacks carried out by the Seleka on the 7th arrondissement on or about 13 April 2013 and on Boy Rabe on or about 14 April 2013 and 20 August 2013 during which the Seleka shot indiscriminately at people, committed multiple crimes against civilians, including killings, rape, mistreatment and other forms of violence, and extensively looted homes and private properties.[2179]

846. The Seleka targeted the part of the population they perceived to support François Bozizé.[2180] The targeted population was identified by religion (Christian), ethnicity

[2175] P-1167: T-035, pp. 52-53, referring to photograph, CAR-OTP-2094-1940 and identifying General Moussa [REDACTED]; P-2105: T-025, p. 38.
[2176] P-2042: CAR-OTP-2074-0002, at 0008, para. 27.
[2177] *See* above paras 614-624.
[2178] *See* above paras 613, 616, 625, 628-629.
[2179] *See* above paras 613, 625, 628-629.
[2180] *See* above paras 632-633.

(particularly people belonging to the Gbaya, Mandja and Banda ethnic groups), gender (predominantly male), and association with Bozizé's regime (including family members and personal associates of François Bozizé, former State officials and members or former members of the security and defence forces).[2181] The Seleka used local informants to identify their targets and focused their exactions on particular areas deemed to be strongholds for supporters of François Bozizé such as the 4th arrondissement, the 7th arrondissement, Boeing, Combattant, and PK 12.[2182] While the Seleka mainly targeted these areas, the targeting was not confined exclusively to these, but extended across the city of Bangui.[2183]

847. Regarding the FACA, the Chamber notes that some former FACA members did not return to work following the 24 March 2013 coup d'état, left military life and returned to their homes or went into hiding.[2184] The Chamber clarifies that it considers former FACA members who resumed civilian life following the coup d'état to be civilians at the relevant time.

848. Regarding FACA members who reported back for duty following the coup d'état, the Chamber recalls the finding of the majority that there was no armed conflict ongoing at the time in Bangui[2185] and that the population of Bangui was not engaged in armed or violent resistance against the Seleka during the relevant time-frame.[2186] FACA members who resumed their duties were continuously harassed and intimidated by the Seleka and were largely confined to barracks for their own protection or in hiding.[2187] They were targeted because they, together with the other sections of the population identified above, were perceived to be supporters of François Bozizé.[2188] In terms of the nature of the crimes committed against FACA members, the Chamber notes that the Seleka targeted them in the same way and subjected them to similar mistreatment as other members of the population perceived to support François Bozizé and committed crimes against their family members.[2189] In the Chamber's view, this demonstrates that FACA victims were

[2181] *See* above para. 632.
[2182] *See* above paras 625, 633.
[2183] *See* above paras 613-624.
[2184] *See* above paras 373, 376-377.
[2185] *See* above para. 573.
[2186] *See* above para. 634.
[2187] *See* above paras 625, 632, 649.
[2188] *See* above para. 632.
[2189] *See* above paras 613, 614, 625, 628-629, 632-634.

not targeted because of their military status but rather as part of the discriminatory attack launched on the civilian population. In these circumstances, the Chamber considers members of the FACA who resumed their duties to have been civilians at the time and for the purposes of the attack.

849. In any event and even assuming that the FACA members who resumed their duties should be considered to be members of the armed forces and not civilians, the Chamber finds, based on the same reasons set out in the preceding paragraph, that they were only part of the population attacked and were targeted for the same reason as the rest of the civilian population (perceived support of François Bozizé). In these circumstances, the Chamber is satisfied that the presence of non-civilian FACA members amongst the targeted population did not deprive it of its civilian character.

b) Widespread or systematic nature of the attack

850. Based on the temporal extent of the attack, the population density of some of the areas that were particularly targeted in Bangui, and the scale at which civilians fled the Seleka's exactions, the Chamber finds that the attack was widespread within the meaning of article 7(1) of the Statute.[2190] In addition, considering that throughout the period of the charges, the Seleka attacked civilians in Bangui whom they perceived to be linked to François Bozizé, used informants to assist in locating them, engaged in a repetitive and similar pattern of criminality (particularly in relation to the operations conducted in particular areas, the mistreatment in detention and extortion of money from detainees),[2191] the Chamber finds that these attacks were also systematic.

c) Organisational policy

i. Organisation

851. Based on the factual findings set out above and as explained below, the Chamber is satisfied that the Seleka constituted an organisation with a sufficient structure to ensure the coordination necessary to carry out the attack. When the Seleka reached Bangui on 24 March 2013, the leaders of the individual armed groups forming the Seleka (the UFDR led by Michel Djotodia, the CPJP led by Abdoulaye Hissène and Nouradine Adam and

[2190] *See* above paras 613, 633, 635.
[2191] *See* above paras 613-616, 631 (regarding the repetitive and similar pattern of criminality), 617-623 (regarding detention), 625, 628-629 (regarding the operations and use of informants), 632-633 (regarding the population targeted).

the CPSK led by Mohamed Moussa Dhaffane) continued to play a key role.[2192] Thereafter, the Seleka structure remained that of a coalition of groups.[2193] Michel Djotodia and Nouradine Adam controlled and led the largest groups within the coalition and coordinated their activities during the relevant time-frame.[2194] Michel Djotodia together with other senior Seleka representatives dominated the State apparatus, including the government, and security and defence forces.[2195] The Seleka appropriated State property and diverted taxes and State finances to the benefit of the Seleka.[2196] The Seleka controlled various strategic locations in Bangui at the relevant time, including military bases and police posts, which coordinated their activities and were under responsible command.[2197] Within the Seleka, orders were followed and a hierarchy observed although the *de facto* hierarchy did not necessarily correspond to the ranks that people occupied.[2198] The Chamber is also satisfied that the Seleka leadership had sufficient control to: (i) identify Seleka members by issuing identity documents to them;[2199] (ii) place them under the command of a senior Seleka commander;[2200] (iii) feed and station them at bases across Bangui;[2201] and (iv) train and instruct them with respect to their movements and activities.[2202] The Seleka also had sufficient resources in terms of numbers of personnel, weapons, vehicles, and finances.[2203]

ii. Policy

852. Based on the factual findings set out above and as explained below, the Chamber is satisfied that there was an organisational policy on the part of the Seleka to attack the civilian population perceived to support François Bozizé during the period relevant to the charges.

853. The Chamber recalls that the Seleka was unified by a shared dissatisfaction with the Bozizé regime's neglect of the northern regions of CAR, which had resulted in a

[2192] *See* above paras 356-357, 367, 636-638.
[2193] *See* above paras 636-637.
[2194] *See* above paras 636-637, 639.
[2195] *See* above paras 646-649.
[2196] *See* above para. 647.
[2197] *See* above paras 639-641, 644.
[2198] *See* above para. 641.
[2199] *See* above para. 642.
[2200] *See* above paras 639, 641.
[2201] *See* above paras 639, 644, 647.
[2202] *See* above paras 639, 641, 645.
[2203] *See* above paras 636-637, 639, 643, 647-649 (considering also that Seleka leaders controlled the FACA).

persistent scarcity in State resources in those regions.[2204] Following the coup d'état on 24 March 2013, Michel Djotodia and his supporters made statements to the effect that Christians had been ruling CAR since independence up to 2013 and that they in turn would need to have power for 50 years.[2205] Based on the manner in which the Seleka carried out the attack against the civilian population when they took power in Bangui, and in particular the focus on looting and extortion and the profile of those targeted (in terms of religion, ethnicity, gender and perceived political affiliation),[2206] the Chamber is satisfied that the Seleka's exactions were motivated by a desire to punish or extract what they believed to have been owed from persons perceived as associated with Bozizé's regime and to obtain and to hold on to power in CAR for as long as possible.

854. The Chamber finds that senior Seleka leaders, including Nouradine Adam, Michel Djotodia, Abdoulaye Hissene, and Moussa Assimeh were present when crimes were being committed and were themselves implicated in the commission of those crimes.[2207] This is supported by the Chamber's findings set out above that the Seleka under the command of General Abdoulaye Hissene in Camp Kassai would terrorise the population of the surrounding area;[2208] General Arda's men at Camp de Roux, including Colonel Kader, were implicated in the killing of men whose bodies were found in the Oubangui River;[2209] the Seleka under Colonel Kondo, who were based at the Lycée Boganda and the Old Post of Communications across the road, would steal from passers-by, detain and kill people and dump their bodies in the surrounding areas;[2210] Michel Djotodia and Nouradine Adam, were present in Boy Rabe during the April and August attacks and other Seleka leaders were there issuing orders and committing crimes;[2211] senior Seleka leaders including Michel Djotodia, Nouradine Adam, General Al Khatim, Moussa Assimeh, and Colonel Abdel Kader were involved in the detention, torture and transfer of prisoners at the OCRB, Camp de Roux, Camp Kassai, CEDAD, SERD/SRI, Sapeurs-Pompiers, Ngaragba prison, Camp Béal, BSS and Base 124 and in extorting money from family members for their release;[2212] looted property was stored in the Seleka base at

[2204] *See* above paras 353, 356, 360-361.
[2205] *See* above para. 632.
[2206] *See* above paras 613, 616-619, 632-633.
[2207] *See* above paras 613, 616, 619, 621-624, 630.
[2208] *See* above para. 613.
[2209] *See* above paras 614, 631.
[2210] *See* above paras 614, 673. *See also* para. 639.
[2211] *See* above para. 630.
[2212] *See* above paras 617-624.

Sapeurs-Pompiers under the control of Moussa Assimeh, and senior Seleka leaders, including Nouradine Adam, Michel Djotodia, Moussa Assimeh and Rakiss were implicated in looting;[2213] Nouradine Adam, as Minister of Public Security, would issue stolen vehicles with *laissez-passer* to enable them to travel abroad or through checkpoints.[2214]

855. The Chamber notes that, in his position as Head of State, Michel Djotodia had access to the State's finances and siphoned State funds off to Seleka commanders for the maintenance of armed Seleka members in Bangui,[2215] despite the crimes attributed to them. Indeed, the Chamber notes that Michel Djotodia paid the Seleka who had been committing crimes at the OCRB when they departed from the OCRB and some of these Seleka immediately resumed the same activities under the command of Nouradine Adam at CEDAD.[2216] Seleka members, in turn, were enabled and encouraged by their leadership's political authority and lack of accountability, to continue to commit crimes without serious consequences.[2217]

856. The Chamber also notes that senior Seleka leaders made public statements threatening to burn or raze Boy Rabe or punish civilians for protesting against Seleka exactions or violence against Seleka members.[2218] In assessing the significance of these statements, the Chamber has had regard to the wider context in which they were made. In particular, the Chamber notes that these statements were uttered at a time when there was limited evidence of violent resistance against the Seleka in Bangui.[2219] On the contrary, the Seleka were committing crimes against civilians in Bangui on an almost daily basis when Seleka leaders issued these threats against the civilian population.[2220]

857. The Chamber finds that the Seleka leadership failed to take genuine and effective action to prevent or punish the criminality among their ranks.[2221] Although the Chamber has established that Seleka leaders made statements deprecating the criminal activities of 'out-of-control' Seleka members, punished Seleka members for certain crimes, and that

[2213] *See* above para. 616.
[2214] *See* above para. 616.
[2215] *See* above para. 647.
[2216] *See* above paras 619-621.
[2217] *See* above paras 655-663
[2218] *See* above paras 614, 627, 661.
[2219] *See* above para. 634.
[2220] *See* above paras 846-847, 849, 851.
[2221] *See* above paras 651, 663, 846.

attempts were made to initiate confidence-building measures,[2222] based on the following considerations, it finds that these efforts were limited, ineffective and disingenuous.

858. First, the Chamber considers that there was no indication in the evidence that these interventions had any impact in reducing the frequency or intensity of the crimes. Indeed, having regard to its factual conclusions on the Seleka's course of conduct above, the Chamber considers that the wave of Seleka violence that hit the population of Boy Rabe in April 2013 was replicated in August 2013.[2223] The Chamber also considers that the general pattern of crimes committed by the Seleka remained unchanged throughout the period between April and August 2013: killing, raping and mistreatment, looting, and detention accompanied by extortion for the release of detainees.[2224]

859. Second, the Chamber considers that the Seleka leadership failed to meaningfully condemn, investigate and prosecute crimes committed by Seleka members during the relevant period. Justice was selective and Seleka were sometimes punished because their victims were persons of importance and/or were able to leverage personal connections with higher-ranked Seleka members.[2225] Seleka members detained in relation to exactions against the civilian population were detained for short periods before being released or sent for training.[2226]

860. Third, the Chamber considers that senior Seleka commanders, who had supported Michel Djotodia's leadership of the Seleka during the advance on Bangui, were appeased and often rewarded with posts of responsibility, rather than admonished or held accountable for crimes they had committed. The Chamber recalls that Michel Djotodia awarded Moussa Assimeh a medal in a public ceremony, despite his direct involvement in criminal acts against the civilian population of Bangui over months.[2227] The Chamber also recalls Michel Djotodia's close working relationship with Nouradine Adam and the latter's direct involvement in the Seleka exactions.[2228]

[2222] *See* above paras 655, 657-659. In this context, the Chamber notes also the attempts by Michel Djotodia to pay reparations to victims and/or provide money for ransom for abducted persons, and the evidence that at least some Seleka members were subjected to disciplinary measure to punish exactions against the civilian population.
[2223] *See* above paras 628-629.
[2224] *See* above paras 613-623.
[2225] *See* above para. 657.
[2226] *See* above para. 657.
[2227] *See* above para. 616.
[2228] *See* above paras 636, 650.

861. As to whether the Seleka leadership had the capacity to implement successful measures, the Chamber notes that they had control over the Seleka members in the most significant bases in Bangui and that efforts to bring an end to Seleka criminality would have been supported by regional and international peacekeeping missions deployed in CAR during 2013.[2229] In the circumstances, the Chamber has no doubt that the Seleka leadership could have enforced discipline within the Seleka had that been their intention.

862. In connection with this, the Chamber also notes the negative impact that the Seleka had on the functioning of State institutions and the ability of the defence and security forces to contribute to efforts to restore law and order.[2230] By virtue of their respective official posts as Head of State and Minister of Public Security, Michel Djotodia and Nouradine Adam controlled the State's defence and security forces.[2231] Under their leadership, the Seleka dominated State institutions, stole weapons and vehicles, and harassed and persecuted members of the defence and security forces, which significantly hampered their ability to respond to criminality.[2232]

863. Finally, the Chamber notes that the Seleka were under significant pressure both externally from the international community and internally in the form of protests by the population to bring an end to the exactions being committed against the civilian population.[2233] The Chamber understands efforts purporting to bring an end to Seleka criminality and the manner in which certain transitional arrangements were implemented in form while, in reality, the Seleka dominated and crippled State institutions, against this background.[2234] The Chamber finds that the measures taken in this regard were reflective of the Seleka's desire to retain power against the background of public discontent and international pressure while ensuring that their members could still obtain their rewards. The only reasonable conclusion given the considerations outlined above is that there was no genuine intent on the part of the Seleka leadership to prevent and punish crimes on the part of the Seleka.

864. The Defence argues that the operations carried out in Boy Rabe and the 7th

[2229] *See* above paras 639, 653.
[2230] *See* above paras 646-649.
[2231] *See* above paras 646, 648-650.
[2232] *See* above paras 636-637, 643, 646-649.
[2233] *See* above paras 651-654.
[2234] *See* above paras 646-650, 655-660.

arrondissement were legitimate disarmament operations.[2235] The Chamber recalls its findings that: (i) former FACA members went into hiding and hid weapons following the Seleka coup d'état,[2236] (ii) the attacks on Boy Rabe were carried out in reprisal for isolated and small-scale acts of violence against the Seleka immediately prior;[2237] and (iii) during the April attack on the 7th arrondissment, armed Seleka searched houses for weapons and members of the FACA.[2238] In view of these considerations, the Chamber accepts that one of the reasons the Seleka targeted these neighbourhoods was to locate weapons. Nevertheless, given the manner in which the operations were carried out, the population targeted and the pattern of crimes,[2239] the Chamber is unpersuaded that these operations could be characterised as legitimate disarmament operations.

865. The Defence also submits that crimes committed following the takeover of Bangui were committed by rogue individuals who targeted the abundance of wealth that existed in these areas.[2240] The Chamber finds that this perspective of the evidence cannot be reconciled with the pattern of conduct and repeated targeting of certain parts of the civilian population, the personal involvement of senior Seleka leaders in the commission of crimes, and the threatening statements made by senior Seleka leaders as set out above. In relation to the operations in Boy Rabe and the 7th arrondissement, the Chamber recalls the accounts of witnesses present regarding the indiscriminate shooting and targeting of civilians, the multiplicity of crimes against civilians, the extensive looting of property which was subsequently stored at Seleka bases, the presence of Seleka leaders during the operations in Boy Rabe and the failure to meaningfully punish or discipline the Seleka members responsible.[2241] The Chamber does not accept the Defence's submission that these were the actions of individual Seleka members who were out of control and acting for their personal enrichment.

866. Having regard to these considerations, the Chamber concludes that the only reasonable inference is that the Seleka's attack against the civilian population of Bangui from at least

[2235] Defence Closing Brief, ICC-01/14-01/21-1039-Red, paras 102-106.
[2236] *See* above paras 372-373, 376.
[2237] *See* above paras 626-627, 633.
[2238] *See* above para. 625.
[2239] *See* above paras 625-629, 632-633.
[2240] Defence Closing Brief, ICC-01/14-01/21-1039-Red, paras 107-121.
[2241] *See* above paras 616 (storage of looted goods at Seleka bases), 625-630 (operations in Boy Rabe and the 7th arrondissement), 657 (general failure to punish or discipline Seleka members involved in the commission of crimes).

April 2013 until at least November 2013 was carried out pursuant to an organisational policy.

d) Conclusion

867. Accordingly, and having regard to its conclusions set out above, the Chamber finds that the Seleka carried out a widespread and systematic attack against the civilian population of Bangui perceived to support François Bozizé from at least April 2013 until at least November 2013.

IV. THE OCRB – CRIMES CHARGED AND MR SAID'S CRIMINAL RESPONSIBILITY

A. APPLICABLE LAW

1. Charged crimes

868. In the following, the Chamber will set forth the relevant applicable law of the individual crimes with which Mr Said is charged.

869. Unless otherwise provided in the Statute, the material elements of the crimes must have been committed with 'intent' and 'knowledge' within the meaning of article 30 of the Statute.[2242] According to article 30(2) of the Statute 'a person has intent where: (a) [i]n relation to conduct, that person means to engage in the conduct; (b) [i]n relation to a consequence, that person means to cause that consequence or is aware that it will occur in the ordinary course of events.' 'Knowledge' means awareness that a circumstance exists or a consequence will occur in the ordinary course of events.[2243] As regards the phrase 'will occur in the ordinary course of events' in article 30(2)(b) and (3) of the Statute, this requires virtual certainty that the consequences in question would occur.[2244] To the extent that any further discussion beyond the terms of article 30 of the Statute is necessary for specific crimes, the Chamber will also discuss the additional mental

[2242] Article 30 of the Statute provides: '1. Unless otherwise provided, a person shall be criminally responsible and liable for punishment for a crime within the jurisdiction of the Court only if the material elements are committed with intent and knowledge.' *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 3787; *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 1119; *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 2695. *See also* *Lubanga* Appeal Judgment, ICC-01/04-01/06-3121-Red, paras 446-451.
[2243] Article 30(3) of the Statute.
[2244] *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 3787; *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 1121; *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 2695; *Lubanga* Appeal Judgment, ICC-01/04-01/06-3121-Red, paras 447-450.

elements below.

a) Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law as a crime against humanity (article 7(1)(e) of the Statute)

870. The Chamber notes that the crime of 'imprisonment or other severe deprivation of liberty' under article 7(1)(e) of the Statute is framed more broadly than its equivalent in the Statutes of the *ad hoc* tribunals, which referred only to 'imprisonment'.[2245] Commentators on the drafting of the Statute explain that the broad formulation of article 7(1)(e) of the Statute was intended to clarify that the crime encompasses not only detention in prison-like conditions but also other forms of severe deprivation of liberty.[2246] The Chamber notes that this broad conception of the crime is in line with the jurisprudence of the ICTY on the crime of 'imprisonment', which was found to encompass situations where persons were confined to former military facilities,[2247] concentration camps,[2248] schools,[2249] cultural or entertainment centres,[2250] other buildings,[2251] and even villages.[2252] Regarding 'other severe deprivation of physical liberty', the determination as to whether the deprivation of physical liberty is 'severe' must be assessed on a case-by-case basis.[2253]

871. The Chamber notes that, according to the Elements of Crimes, the second element of the crime of 'imprisonment or other severe deprivation of liberty' requires that '[t]he gravity of the conduct was such that it was in violation of fundamental rules of international law'.[2254] This element excludes instances of lawful arrest and/or detention from the ambit of article 7(1)(e) of the Statute.[2255] In assessing whether an arrest and detention was

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[2245] *See* article 5(e) of the ICTY Statute; article 3(e) of the ICTR Statute; article 2(e) of the SCSL Statute.
[2246] Lee, *The International Criminal Court: Elements of Crimes and Rules of Procedure and Evidence*, p. 88.
[2247] *Prlić et al.* Trial Judgment, vol. 2, para. 1494; *Kordić and Čerkez* Trial Judgment, para. 790.
[2248] *Kordić and Čerkez* Trial Judgment, para. 774.
[2249] *Prlić et al.* Trial Judgment, vol. 2, para. 216; *Kordić and Čerkez* Trial Judgment, para. 783.
[2250] *Kordić and Čerkez* Trial Judgment, paras 777-779.
[2251] *Prlić et al.* Trial Judgment, vol. 3, para. 953; *Kordić and Čerkez* Trial Judgment, paras 780-781.
[2252] *Kordić and Čerkez* Trial Judgment, paras 792-793, 802.
[2253] *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 3835; *Yekatom and Ngaïssona* Confirmation Decision, ICC-01/14-01/18-403-Red-Corr, para. 119; *Burundi* Authorization Decision, ICC-01/17-9-Red, para. 68.
[2254] Paragraph 2 of the Elements of Crimes of article 7(1)(e) of the Statute. *See also* *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 3834; *Burundi* Authorization Decision, ICC-01/17-9-Red, para. 68.
[2255] *See* *Burundi* Authorization Decision, ICC-01/17-9-Red, para. 68. *See also* articles 9-11 of the Universal Declaration of Human Rights; articles 9-11, 14-15 of the International Covenant on Civil and Political Rights; articles 6-7 of the African Charter on Human and Peoples' Rights; articles 5-7 of the European Convention on Human Rights; articles 7-9 of the American Convention on Human Rights; article 37 of the Convention on the

unlawful or arbitrary, regard should be had to the applicable law at the time of commission, which may, depending on the factual circumstances of a particular case, require consideration of whether the arrest and detention was lawful under international humanitarian law[2256] or international human rights law. Furthermore, the Chamber notes that international law is determinative of the question of lawfulness, and therefore for a national law to render an arrest and/or detention lawful, it must accord with international legal standards.[2257]

872. The Chamber underlines that, even if there was initially a valid legal basis to detain, this must continue to exist throughout the period of detention.[2258] In addition, detention that was initially legal may become arbitrary if basic guarantees are not respected.[2259]

873. The Chamber understands the reference to 'gravity' to signify the drafters' intent to exclude minor procedural breaches that are not sufficiently serious to justify the imposition of individual criminal responsibility for resultant violations of the right to liberty.[2260] According to commentators on the drafting history, 'the issue is not whether procedures complied with all international standards, but rather whether there was a violation of a *fundamental* nature'.[2261]

874. The third element of article 7(1)(e) of the Statute is that '[t]he perpetrator was aware of the factual circumstances that established the gravity of the conduct'. The Chamber notes that commentaries on the drafting of the Statute clarify that this was added in order to avoid the risk that criminal responsibility would be imposed on jailors responsible for detaining individuals without knowing whether or not the procedures prescribed by law had been respected.[2262] The Chamber understands this requirement to emphasise that the

Rights of the Child; Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

[2256] The Chamber is cognisant that, for imprisonment or other severe deprivation of liberty as a crime against humanity, the existence of an armed conflict is not required: *see* *Kordić and Čerkez* Trial Judgment, para. 115. However, by virtue of the inclusion of the proviso 'in violation of fundamental rules of international law' in article 7(1)(e) of the Statute, to the extent that an armed conflict was in existence at the time an individual was detained, an assessment of international humanitarian law may be required to assess the legality of the detention.

[2257] *Ntagerura et al.* Trial Judgment, para. 702; *Krnojelac* Trial Judgment, para. 114.

[2258] *Case 001* Trial Judgment, para. 348; *Ntagerura et al.* Trial Judgment, para. 702; *Krnojelac* Trial Judgment, para. 114.

[2259] *See* *Delalić et al.* Appeal Judgment, para. 322; *Thaçi et al.* Jurisdiction Decision, paras 154-155.

[2260] Lee, *The International Criminal Court: Elements of Crimes and Rules of Procedure and Evidence*, p. 89.

[2261] Lee, *The International Criminal Court: Elements of Crimes and Rules of Procedure and Evidence*, p. 89.

[2262] Lee, *The International Criminal Court: Elements of Crimes and Rules of Procedure and Evidence*, p. 89.

perpetrator must act in awareness of the *wrongfulness* of the detention.

b) Torture as a crime against humanity (article 7(1)(f) of the Statute)

875. Torture requires that '[t]he perpetrator inflicted severe physical or mental pain or suffering upon one or more persons'.[2263]

876. The severity implies an important degree of pain and suffering,[2264] which may be inflicted by a single act or omission or by a combination of acts and/or omissions when viewed as a whole.[2265] This can be assessed only on a case-by-case basis in the light of all the circumstances of the case.[2266] It is not necessary to prove that the pain or suffering involved specific physical injury (such as organ failure), impairment of a bodily function

[2263] Article 7(2)(e) of the Statute; paragraph 1 of the Elements of Crimes of article 7(1)(f) and article 8(2)(c)(i)-4 of the Statute.
[2264] *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 3816; *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 1128; *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, paras 2700-2701. *See also* *Al Hassan* Confirmation Decision, ICC-01/12-01/18-461-Corr-Red-tENG, para. 230; *Bemba* Confirmation Decision, ICC-01/05-01/08-424, para. 193; *Shumba v. Zimbabwe* Communication, para. 138; *El-Masri v. Macedonia* Judgment, para. 90; *Caesar v. Trinidad and Tobago* Judgment, paras 67-69; *Krnojelac* Trial Judgment, para. 181; *Delalić et al.* Trial Judgment, para. 468.
[2265] *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 748; *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 3816; *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 1128; *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 2701. *See also* *Al Hassan* Confirmation Decision, ICC-01/12-01/18-461-Corr-Red-tENG, para. 230; *Krnojelac* Trial Judgment, para. 182.
[2266] *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 748; *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 3816; *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 1128; *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 2701. *See also* *Brđanin* Appeal Judgment, para. 251; *Naletilić and Martinović* Appeal Judgment, para. 299; *Al Hassan* Confirmation Decision, ICC-01/12-01/18-461-Corr-Red-tENG, para. 230; *Case 001* Trial Judgment, para. 355; *Ireland v. United Kingdom* Judgment, para. 162 ('[t]he assessment of th[e] minimum [level of severity] is, in the nature of things, relative; it depends on all the circumstances of the case, such as the duration of the treatment, its physical or mental effects and, in some cases, the sex, age and state of health of the victim, etc.'). *See also* *Shumba v. Zimbabwe* Communication, para. 138 ('The assessment of this minimum level is relative; it depends on all the circumstances of the case, such as the duration of the treatment, its physical and mental effects and, in some cases, the sex, age and state of health of the victim.'); *Gonzáles v. Peru* Judgment, para. 142 ('the violation of the right to physical and mental integrity has different connotations of degree, and ranges from torture to other kinds of abuse or cruel, inhuman or degrading treatment, the physical and mental aftereffects of which vary in intensity in accordance with factors that are endogenous and exogenous to the individual (such as, duration of the treatment, age, sex, health, context, and vulnerability) that must be analyzed in each specific situation. […] the personal characteristics of a presumed victim of torture or cruel, inhuman or degrading treatment must be taken into account when determining whether their personal integrity was violated, because these characteristics may change the individual's perception of the reality and, consequently, increase the suffering and the feeling of humiliation when they are subjected to certain treatments.').

or death.[2267] The pain and suffering may be either physical or mental.[2268] The consequences of torture do not have to be visible, nor must the injury be permanent.[2269] The perpetrator need not have completed a value judgment as to the severity of the pain inflicted.[2270]

877. For torture as a crime against humanity, article 7(1)(f) of the Elements of Crimes stipulates two additional material elements:

> 1. Such person or persons were in the custody or under the control of the perpetrator.
> 2. Such pain or suffering did not arise only from, and was not inherent in or incidental to, lawful sanctions.

878. No specific purpose need be proven for torture as a crime against humanity.[2271]

c) Other inhumane acts as a crime against humanity (article 7(1)(k) of the Statute)

879. Article 7(1)(k) of the Statute serves as a 'residual category' of crimes against humanity, designed to criminalise an act that does not specifically qualify as any of the other crimes under article 7(1) of the Statute, based on the understanding that an exhaustive enumeration of inhumane acts is impossible.[2272]

[2267] *Brđanin* Appeal Judgment, paras 244-51; *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 748; *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 3816; *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 1128; *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 2701. *See also* *Al Hassan* Confirmation Decision, ICC-01/12-01/18-461-Corr-Red-tENG, para. 231; *Case 001* Trial Judgment, para. 355.

[2268] *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 748; *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 3816; *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 1128; *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 2701. Paragraph 1 of the Elements of Crimes of articles 7(1)(f) and 8(2)(c)(i)-4 of the Statute; General Comment No. 20: Article 7 (Prohibition of torture, or other cruel, inhuman or degrading treatment or punishment), para. 5. *See also* *Shumba v. Zimbabwe* Communication, paras 143-144; *Loayza-Tamayo v. Peru* Judgment, para. 57; *Ireland v. United Kingdom* Judgment, para. 167.

[2269] *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 748; *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 3816; *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 1128; *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 2701. *See also* *Kunarac et al*. Appeal Judgment, para. 150; *Case 001* Trial Judgment, para. 355; *Kvočka et al.* Trial Judgment, para. 148.

[2270] *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 748; *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 1128; *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 2707. Paragraph 4 of the General Introduction of the Elements of Crimes ('[w]ith respect to mental elements associated with elements involving value judgement, such as those using the terms "inhumane" or "severe", it is not necessary that the perpetrator personally completed a particular value judgement, unless otherwise indicated.').

[2271] Footnote 14 of the Elements of Crimes of article 7(1)(f) of the Statute. *See also* *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 3821; *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 1146; *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 2706.

[2272] *Ongwen* Appeal Judgment, ICC-02/04-01/15-2022-Red, para. 1017; *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 754; *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 3825;

880. However, as noted by the Appeals Chamber, not every act will amount to 'an other inhumane act' within the meaning of article 7(1)(k) of the Statute.[2273] In this regard, in conformity with the principle of legality, this category of crimes against humanity must be interpreted conservatively and – with due regard to article 22(2) of the Statute – must not be used to expand uncritically the scope of crimes against humanity.[2274]

881. Bearing this in mind, the crime of other inhumane acts is committed, either by act or omission, when the following elements are fulfilled:

> 1. The perpetrator inflicted great suffering, or serious injury to body or to mental or physical health, by means of an inhumane act.
>
> 2. Such act was of a character similar to any other act referred to in article 7, paragraph 1, of the Statute.
>
> 3.The perpetrator was aware of the factual circumstances that established the character of the act.[2275]

882. If the act or omission is the same as one of the enumerated acts in article 7(1) of the Statute, with an identical 'character' in terms of its nature, harm suffered and protected interests involved, then the second material element under article 7(1)(k) is not satisfied. In this regard, a conviction can be entered for a crime under article 7(1)(a)-(j), but not for the crime of 'other inhumane act' under article 7(1)(k).[2276]

883. However, this does not mean that a conviction under article 7(1)(k) of the Statute can be entered only when the conduct in question, considered in its entirety, falls completely outside any act under article 7(1)(a)-(j). Rather, a conviction can be entered *also* under article 7(1)(k) when the full scope of the culpable conduct is not reflected by its qualification under the enumerated crime(s) alone. The Chamber notes that 'character'

Al Hassan Trial Judgment, ICC-01/12-01/18-2594-Red, para. 1183; *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 2745; *Al Hassan* Confirmation Decision, ICC-01/12-01/18-461-Corr-Red-tENG, para. 252; *Kenyatta and Ali* Confirmation Decision, ICC-01/09-02/11-382-Red, para. 269.

[2273] *Ongwen* Appeal Judgment, ICC-02/04-01/15-2022-Red, para. 1018.

[2274] *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 2741. Article 22(2) of the Statute provides: '[t]he definition of a crime shall be strictly construed and shall not be extended by analogy. In case of ambiguity, the definition shall be interpreted in favour of the person being investigated, prosecuted or convicted.' *See also* *Kenyatta and Ali* Confirmation Decision, ICC-01/09-02/11-382-Red, para. 269.

[2275] Elements of Crimes of article 7(1)(k) of the Statute.

[2276] *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 754; *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 3826; *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 1184; *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 2746; *Kenyatta and Ali* Confirmation Decision, ICC-01/09-02/11-382-Red, para. 269; *Katanga and Ngudjolo* Confirmation Decision, ICC-01/04-01/07-717, para. 452.

under the second material element of article 7(1)(k) refers to the nature and gravity of the act.[2277] The Chamber can enter a conviction under article 7(1)(k) if the perpetrator inflicts great suffering, or serious injury to body or to mental or physical health, by means of a course of conduct which, despite comprising also acts falling under one or more of the enumerated crimes, is, in its entirety, not identical, but is nonetheless 'similar' in character in terms of nature and gravity, to those enumerated crimes.[2278]

884. The following acts or omissions have been considered to amount to other inhumane acts: forced marriage, forcible circumcision and penile amputation, mental suffering caused by brutal killings and mutilations committed in front of family members, striking people with a machete and injuring protesters by mortar fire, serious beatings, subjection to deplorable conditions of detention requiring persons to witness the beatings or killings of others, and threats of physical violence against the victim or members of the victim's family.[2279]

d) Persecution as a crime against humanity (article 7(1)(h) of the Statute)

885. Article 7(1)(h) of the Statute defines persecution as conduct against identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3,[2280] or other grounds that are universally recognised as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court.

886. Article 7(2)(g) of the Statute stipulates that '"[p]ersecution" means the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity'.

[2277] *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 755; *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 3827; *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 1185; *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 2747. *See also* Elements of Crimes, n. 30.
[2278] *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 755; *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 3827; *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 1185; *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 2747.
[2279] *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 756; *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 3828; Al Hassan Trial Judgment, ICC-01/12-01/18-2594-Red, para. 1186; *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 2744; *Al Hassan* Confirmation Decision, ICC-01/12-01/18-461-Corr-Red-tENG, para. 260.
[2280] Article 7(3) of the Statute stipulates: 'For the purpose of this Statute, it is understood that the term "gender" refers to the two sexes, male and female, within the context of society. The term "gender" does not indicate any meaning different from the above.'

887. The crime is committed when the following four material elements are fulfilled:

> 1. The perpetrator severely deprived, contrary to international law, one or more persons of fundamental rights.
>
> 2. The perpetrator targeted such person or persons by reason of the identity of a group or collectivity or targeted the group or collectivity as such.
>
> 3. Such targeting was based on political, racial, national, ethnic, cultural, religious, gender as defined in article 7, paragraph 3, of the Statute, or other grounds that are universally recognized as impermissible under international law.
>
> 4. The conduct was committed in connection with any act referred to in article 7, paragraph 1, of the Statute or any crime within the jurisdiction of the Court.[2281]

888. The Chamber considers that it is evident from the first element that the conduct underlying the crime against humanity of persecution need not be physical. Discriminatory orders, policies, decisions or other regulations, provided they infringe on fundamental rights and reach the necessary level of gravity, can form underlying acts of persecution.[2282] The notion of 'fundamental rights' in this context has been found to include rights such as the right to life, the right to personal liberty, the right not to be held in slavery or servitude, the right not to be subjected to torture or cruel treatment, inhuman or degrading treatment, the right not to be subjected to arbitrary detention, the right to freedom of expression, the right to freedom of assembly and association, the right to freedom of movement, the right to private property and the right to education.[2283]

889. Nonetheless, the Chamber underlines that not every discriminatory practice can constitute the crime of persecution. The conduct in question must constitute a *severe* deprivation of fundamental rights contrary to international law and must be committed 'in connection with any act referred to in [article 7, paragraph 1, of the Statute] or any crime within the jurisdiction of the Court' to constitute persecution.[2284] This connection requirement serves to ensure a criminal focus and 'filter out' discriminatory measures

[2281] Elements of Crimes of article 7(1)(h) of the Statute.
[2282] *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 1202.
[2283] *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 780; *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 3840; *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 1201; *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 2733; *Ntaganda* Trial Judgment, ICC-01/04-02/06-2359, para. 991; *Al Hassan* Confirmation Decision, ICC-01/12-01/18-461-Corr-Red-tENG, para. 664. *See also* articles 3, 4, 5, 17 of the Universal Declaration of Human Rights; *Tadić* Trial Judgment, paras 703-710.
[2284] Article 7(1)(h), paragraphs 1 and 4 of the Elements of the Crimes.

that would not fall within the Court's jurisdiction without such connection.[2285]

890. Persecution can be committed either in one act or in a series of acts.[2286] If the conduct relied upon is, in and of itself, one of the other acts listed in article 7 of the Statute which can constitute a crime against humanity, it will in principle result in a deprivation of fundamental rights of one or more individuals and the deprivation will meet the minimum level of severity required.[2287] For instance, acts of murder, torture, rape or sexual slavery will satisfy the first element of the crime of persecution.[2288] With respect to other types of underlying acts, the Chamber will need to assess these acts on a case-by-case basis 'in their context and with consideration of their cumulative effect' in order to determine whether, taken alone or in combination with other acts, they have resulted in the 'severe' deprivation of one or more individuals' fundamental rights.[2289] In assessing whether a series of violations amount to a severe deprivation of fundamental rights, the number of fundamental rights implicated and the nature of the deprivation are also relevant considerations.[2290]

891. In respect of the second element, the targeted group can be defined in a positive or a negative manner, meaning that it may be the case that the perpetrator targeted only members of a certain group or collectivity or that the perpetrator targeted individuals for not belonging to a certain group or collectivity.[2291] In evaluating the alleged status as a targeted group, the particular political, social, and cultural context are relevant, in addition to the objective factors relevant to the discriminatory ground alleged, and the

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[2285] *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 1209; Judge Akane's Separate and Partly Dissenting Opinion to the *Al Hassan* Trial Judgment, para. 98; *Al Hassan* Confirmation Decision, ICC-01/12-01/18-461-Corr-Red-tENG, para. 669; *Burundi* Authorization Decision, ICC-01/17-9-Red, para. 131.
[2286] *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 781; *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 1204; *Al Hassan* Confirmation Decision, ICC-01/12-01/18-461-Corr-Red-tENG, para. 663; *Burundi* Authorization Decision, ICC-01/17-9-Red, para. 130. *See also* *Kupreškić et al.* Trial Judgment, paras 622-623, emphasising that each case must be examined on its merits and that courts must have the 'flexibility to determine the cases before them, depending on the forms which attacks on humanity may take, forms which are ever-changing and carried out with particular ingenuity' and the need to evaluate acts of persecution not in isolation but in context by looking at their cumulative effect.
[2287] *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 781; *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 1204; *Ntaganda* Trial Judgment, ICC-01/04-02/06-2359, para. 994.
[2288] *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 1204; *Ntaganda* Trial Judgment, ICC-01/04-02/06-2359, para. 994.
[2289] *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 783; *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 1205; *Ntaganda* Trial Judgment, ICC-01/04-02/06-2359, para. 992.
[2290] *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 783; *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 1205.
[2291] *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 3842; *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 1206; *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 2735; *Ntaganda* Trial Judgment, ICC-01/04-02/06-2359, para. 1009.

subjective perception of belonging of both the perpetrator and the victim.[2292] It is noted, however, that while it must be demonstrated that the perpetrator targeted certain persons, a group or a collectivity, based on one of the prohibited grounds, it is not required that all victims of the crime of persecution be members, sympathisers, allies of, or in any other way related to, the targeted group.[2293]

892. The third element requires that the person or persons within the group or collectivity are targeted on specified discriminatory grounds as listed or any other ground universally recognised as impermissible under international law.[2294] One such ground will suffice, although a combination of more than one may equally form the basis for the discrimination.[2295]

893. The act of discrimination must also be carried out with the intent to discriminate against the targeted persons on any of the grounds enumerated in article 7(1)(h) of the Statute. The perpetrator must harm the victim because the perpetrator perceives the victim as belonging to a particular group or collectivity.[2296] This intent may be inferred from the general behaviour of the perpetrator as well as the circumstances surrounding the commission of the crime.[2297]

894. As to the severe deprivation of fundamental human rights required by this crime, the perpetrator need not have completed a value judgment as to the severity of the deprivation

[2292] *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 786; *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 3843; *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 2736; *Ntaganda* Trial Judgment, ICC-01/04-02/06-2359, para. 1010.
[2293] *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 786; *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 3843; *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 2736; *Ntaganda* Trial Judgment, ICC-01/04-02/06-2359, para. 1011; *Al Hassan* Confirmation Decision, ICC-01/12-01/18-461-Corr-Red-tENG, para. 671.
[2294] *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 785; *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 3837; *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 1207.
[2295] *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 785; *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 1207.
[2296] *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 789; *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 3845; *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 2739. *See also* *Al Hassan* Confirmation Decision, ICC-01/12-01/18-461-Corr-Red-tENG, para. 671; *Popović et al.* Trial Judgement, vol. I, para. 968.
[2297] *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 789; *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 3845; *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 1212; *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 2739. *See also* *Al Hassan* Confirmation Decision, ICC-01/12-01/18-461-Corr-Red-tENG, para. 671; *Kvočka et al.* Appeal Judgment, para. 460.

inflicted.[2298]

2. Nexus requirement and knowledge of perpetrator

895. According to the chapeau of article 7(1) of the Statute, in order to qualify as crimes against humanity, the charged criminal acts must have been committed 'as part of a widespread or systematic attack directed against any civilian population'. When assessing such a nexus, due regard must be given to the characteristics, aims, nature and consequences of the acts concerned.[2299]

896. According to the Elements of Crimes relevant to crimes against humanity, the perpetrator must know that the conduct was part of or intend the conduct to be part of a widespread or systematic attack directed against a civilian population. The introduction to the Elements of Crimes relevant to crimes against humanity specifies that it is not necessary that the perpetrator be aware of the precise details of the plan or policy of the State or organisation.[2300]

3. Mode of liability - commission jointly with another (article 25(3)(a) of the Statute)

897. The Chamber notes that Mr Said is alleged to be individually criminally responsible for the crimes charged at the OCRB between 12 April 2013 and 30 August 2013 by virtue of having: committed those crimes jointly with others (article 25(3)(a)); and ordered or induced the commission of those crimes (article 25(3)(b)).[2301] As set out below, the Chamber finds that Mr Said is responsible for having committed jointly with others those crimes found to have been committed under article 25(3)(a) of the Statute. Ordering and inducing the commission of crimes are considered as part of his essential contribution to the agreement or common plan within that form of responsibility. Therefore, it is unnecessary to additionally consider Mr Said's responsibility under article 25(3)(b) of the Statute. In this section, the Chamber will set out the applicable law for the mode of liability relevant to its findings, which is responsibility under article 25(3)(a) of the

[2298] Paragraph 4 of the General Introduction of the Elements of Crimes ('[w]ith respect to mental elements associated with elements involving value judgement, such as those using the terms "inhumane" or "severe", it is not necessary that the perpetrator personally completed a particular value judgement, unless otherwise indicated').
[2299] *Abd-Al-Rahman* Trial Judgment, ICC-02/05-01/20-1240, para. 702; *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 3781; *Al Hassan* Trial Judgment, ICC-01/12-01/18-2594-Red, para. 1116; *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 2688; *Ntaganda* Trial Judgment, ICC-01/04-02/06-2359, para. 696; *Katanga* Trial Judgment, ICC-01/04-01/07-3436-tENG, para. 1124.
[2300] Paragraph 2 of the Introduction to the Elements of Crimes, article 7 of the Statute.
[2301] Confirmation of Charges Decision, ICC-01/14-01/21-218-Red, pp. 58-60, paras 33-40.

Statute for committing the crimes charged jointly with others.[2302]

898. Article 25(3)(a) of the Statute provides that 'a person shall be criminally responsible and liable for punishment for a crime within the jurisdiction of the Court if that person […][c]ommits such a crime, whether as an individual, jointly with another or through another person, regardless of whether that other person is criminally responsible'.

899. Joint commission (co-perpetration) occurs when the execution of the material elements of the crime results from the actions of a plurality of persons.[2303] It is not necessary for the accused to carry out the crime physically.[2304] To be held liable for co-perpetration, the following objective elements must be fulfilled: (i) the existence of an agreement or common plan between the accused and one or more other persons to commit the crimes or to engage in conduct which, in the ordinary course of events, would result in the commission of the crimes;[2305] and (ii) an essential contribution by the accused resulting in the realisation of the objective elements of the crime in question.[2306]

900. In respect of the agreement or common plan, the Appeals Chamber found that '[i]t is this very agreement – express or implied, previously arranged or materialising extemporaneously – that ties the co-perpetrators together and that justifies the reciprocal imputation of their respective acts'.[2307]

901. In respect of the 'essential contribution' more specifically, the Chamber notes that the Appeals Chamber has held that the 'essential contribution' does not have to be to a specific crime, and rather it suffices that the essential contribution be to the implementation of the common plan more generally.[2308] In this regard, the Chamber notes

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[2302] The Chamber notes that other trial judgments have proceeded similarly: *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 2781; *Al Mahdi* Trial Judgment, ICC-01/12-01/15-171, para. 20; *Ntaganda* Trial Judgment, ICC-01/04-02/06-2359, para. 1200.
[2303] *Lubanga* Appeal Judgment, ICC-01/04-01/06-3121-Red, para. 445; *Yekatom and Ngaïssona* Trial Judgment, ICC-01/14-01/18-2784-Red, para. 3872; *Ongwen* Trial Judgment, ICC-02/04-01/15-1762-Red, para. 2786.
[2304] *See* *Lubanga* Appeal Judgment, ICC-01/04-01/06-3121-Red, paras 458-473; *Lubanga* Trial Judgment, ICC-01/04-01/06-2842, paras 1003-1005.
[2305] *Lubanga* Trial Judgment, ICC-01/04-01/06-2842, paras 981-984.
[2306] *See* *Lubanga* Appeal Judgment, ICC-01/04-01/06-3121-Red, para. 469; *Lubanga* Trial Judgment, ICC-01/04-01/06-2842, paras 999-1006.
[2307] *Lubanga* Appeal Judgment, ICC-01/04-01/06-3121-Red, para. 445.
[2308] *Ntaganda* Appeal Judgment, ICC-01/04-02/06-2666-Red, para. 1041. The Chamber notes that the *Ntaganda* Appeal Judgment dealt with commission jointly with another and through another person (indirect co-perpetration), but considers these pronouncements to be equally applicable to commission jointly with another person (co-perpetration). In this regard, the Chamber notes that the co-perpetration elements are common to both co-perpetration and indirect co-perpetration requiring the existence of an agreement or a common plan between

the Appeals Chamber's finding that '[t]he decisive consideration […] is whether the individual contribution of the accused within the framework of the agreement was such that without it, the crime could not have been committed or would have been committed in a significantly different way'.[2309]

902. In addition, for an accused to be individually criminally responsible as a co-perpetrator, the material elements of the crimes must have been committed with 'intent' and 'knowledge'.[2310] Any specific *mens rea* required for particular crimes, such as in this case for the crime against humanity of persecution, must also be satisfied. In the context of co-perpetration, this means that the co-perpetrator must have meant to engage in the conduct which constituted his or her essential contribution,[2311] and must have intended the execution of the material elements of the crime or have been aware that the implementation of the agreement between the co-perpetrators would in the ordinary course of events result in the execution of the material elements of the crimes.[2312]

903. The Appeals Chamber found that in order to find an accused criminally responsible as a co-perpetrator for specific criminal acts of murder or rape that took place on particular dates and in particular locations, it need not be established that he or she was aware of the details of these events, including whether and which specific acts had been committed. Rather, what must be established is that the person possessed the requisite *mens rea* with respect to each of the crime as such in the sense of murder, rape, persecution, pillage, etc., committed in implementation of the common plan.[2313]

B. FACTUAL FINDINGS

1. Functioning of the OCRB

904. After 24 March 2013, the Seleka established a base at the OCRB, which had previously been a police unit responsible for the repression of banditry given the rise in major crime in CAR.[2314] The OCRB was located in the 1st arrondissement in Bangui and faced the

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the accused and one or more other persons and an essential contribution by the accused. *Contra* Defence Closing Brief, ICC-01/14-01/21-1039-Red, paras 600-602.

[2309] *Ntaganda* Appeal Judgment, ICC-01/04-02/06-2666-Red, para. 1041, referring to *Bemba et al.* Appeal Judgment, ICC-01/05-01/13-2275-Red, paras 820, 825.

[2310] *See* *Lubanga* Trial Judgment, ICC-01/04-01/06-2842, para. 1007.

[2311] Article 30(2)(a) of the Statute; *see also* *Lubanga* Trial Judgment, ICC-01/04-01/06-2842, para. 1013.

[2312] Article 30(2)(b) of the Statute; *see also* *Lubanga* Trial Judgment, ICC-01/04-01/06-2842, para. 1012.

[2313] *Ntaganda* Appeal Judgment, ICC-01/04-02/06-2666-Red, para. 1065.

[2314] *See* below paras 1076, 1082.

Directorate General of the Police.[2315] The Seleka remained at the OCRB until 30 August 2013.[2316]

905. The OCRB Seleka used the OCRB as a facility to detain people perceived to be supporters of François Bozizé as well as others, including people who had been apprehended for no reason and those allegedly involved in criminal conduct and anti-Seleka demonstrations.[2317] Seleka members were also detained at the OCRB, but sometimes they were treated differently to others.[2318]

906. When the Seleka brought people to the OCRB, the OCRB Seleka would question them about their identity and register their details in a log.[2319] A number of OCRB Seleka members acted as duty officers and kept logs containing details of the detainees and an incidents logbook recording everything that happened at the OCRB on a particular day.[2320] These records were Seleka records and were typically not shared with the police who were present at the OCRB, who generally did not know who the Seleka had detained.[2321]

907. The OCRB Seleka routinely mistreated detainees physically and psychologically at the OCRB.[2322] Multiple OCRB Seleka members would carry out beatings under orders.[2323] OCRB Seleka members would commonly tie detainees up using the *arbatachar* method, which involved forcing a person to lay down on their stomach and tying all their four limbs together in the back with a cord.[2324] There were subordinate OCRB Seleka members who were specialists in tying people up in the *arbatachar* manner.[2325]

908. The OCRB Seleka detained people in the cells in the courtyard as well as in the underground cell.[2326] At times, cells in the courtyard were overcrowded to such an extent that the detainees had difficulty breathing and had to take turns in lying down.[2327] More

[2315] *See* below paras 1076, 1078.
[2316] *See* below para. 1082.
[2317] *See* below paras 1082-1083.
[2318] *See* below para. 1084.
[2319] *See* below para. 1085.
[2320] *See* below para. 1085.
[2321] *See* below para. 1086.
[2322] *See* below paras 1087-1090.
[2323] *See* below para. 1087.
[2324] *See* below para. 1088.
[2325] *See* below para. 1089.
[2326] *See* below paras 1077, 1091-1097.
[2327] *See* below para. 1091.

often than not, the detainees would be allowed out of their cells once a day, but sometimes they were let out twice a day, once in the morning and once in the afternoon for a maximum of 30 minutes.[2328] Family visits would often coincide with these timings.[2329] There was no system for providing food or water for the detainees.[2330] Family members would provide them with food and water during family visits.[2331] The OCRB Seleka did not generally provide any medical assistance or care to the persons detained at the OCRB.[2332]

909. The underground cell was a walled rectangular space under the floorboard of Mr Said's office.[2333] The OCRB Seleka used the underground cell for detaining people from June 2013 at the latest until the end of August 2013.[2334] The entrance of the underground cell was approximately 2 metres by 1 metre and its interior was slightly bigger.[2335] Detainees had to urinate and defecate inside the underground cell.[2336] The underground cell was dark, cramped, dirty, and insufficiently ventilated.[2337] The floor was covered in waste and it smelled of faeces and urine.[2338]

910. The OCRB Seleka did not comply with lawful procedures governing arrest and detention and did not generally afford detainees at the OCRB procedural guarantees, namely, informing them of the reasons for their arrest and detention at the OCRB, informing their relatives of their whereabouts, providing them with legal assistance or producing them promptly before a competent authority.[2339] Relatives had to rely on word of mouth to find out that the Seleka had detained someone at the OCRB.[2340] The Seleka had full discretion to execute purported arrests and their reasons to do so were not apparent.[2341] The OCRB Seleka demanded payment from the family members of persons detained at the OCRB to secure their release.[2342] The OCRB Seleka were not answerable or accountable to the

[2328] *See* below para. 1092.
[2329] *See* below para. 1092.
[2330] *See* below para. 1092.
[2331] *See* below para. 1092.
[2332] *See* below para. 1093.
[2333] *See* below para. 1094.
[2334] *See* below para. 1095.
[2335] *See* below para. 1096.
[2336] *See* below para. 1097.
[2337] *See* below para. 1097.
[2338] *See* below para. 1097.
[2339] *See* below paras 1098, 1100-1102.
[2340] *See* below para. 1098.
[2341] *See* below para. 1098.
[2342] *See* below para. 1101.

prosecutor, who was unable to carry out regular or frequent visits to the OCRB when the Seleka were based there.[2343]

2. Role of Mr Said at the OCRB

a) Mr Said's presence at the OCRB

911. Mr Said was posted to the OCRB by Nouradine Adam in mid to late April 2013 and arrived with a number of Seleka members, including Yaya Soumayele, also known as Soumaine.[2344] Mr Said was present on a daily basis at the OCRB during the period relevant to the charges.[2345] Mr Said was detained at the SRI/SERD for a limited time from 10 June 2013 and had returned to the OCRB by 27 June 2013.[2346] Following the Seleka's departure from the OCRB on 30 August 2013, Mr Said moved from the OCRB to CEDAD along with some of his Seleka troops.[2347]

b) Mr Said's position at the OCRB

912. On his arrival at the OCRB in mid to late April 2013, Mr Said was presented as being the 'new person responsible' for the OCRB.[2348] Mr Said was the *de facto* top ranking official at the OCRB and was in charge.[2349] Mr Said had control over the OCRB and when it came to orders and reports everything went through him.[2350] All of the Seleka at the OCRB were under Mr Said's command and reported to him and a number of Seleka identification badges bore Mr Said's initials.[2351]

c) Mr Said's functions at the OCRB

913. In respect of Mr Said's functions at the OCRB, instructions ultimately came from Mr Said and he issued orders in respect of detainees.[2352] In this regard, Mr Said was

[2343] *See* below para. 1099.
[2344] *See* below paras 1106, 1165, 1175.
[2345] *See* below para. 1107. To the extent that the phrase 'period relevant to the charges' has been used in the following sections regarding the OCRB, Mr Said's criminal responsibility and the charged incidents, the Chamber means the period during which the charged crimes were committed as confirmed by the Pre-Trial Chamber in the Confirmation of Charges Decision, namely between 12 April 2013 and 30 August 2013. *See* Confirmation of Charges Decision, ICC-01/14-01/21-218-Red, pp. 53-54, paras 22, 24-25.
[2346] *See* below paras 1108-1110.
[2347] *See* below para. 1111.
[2348] *See* below paras 1112-1113.
[2349] *See* below paras 1112-1119.
[2350] *See* below paras 1113-1119.
[2351] *See* below paras 1113-1119.
[2352] *See* below para. 1122-1125.

informed about the registration of detainees.[2353] When Mr Said was present at the OCRB, before a detainee could be placed in a cell, Mr Said had to be told and give his agreement.[2354] Mr Said ordered that detainees be detained in cells at the OCRB, including the underground cell.[2355] If a detainee was to be released, Mr Said had to be notified.[2356] Several detainees received release notes that bore Mr Said's name or initials.[2357]

914. Mr Said, who held the keys to the cells along with others, had control over access to the cells at the OCRB.[2358] The police at the OCRB required Mr Said's permission to access and open the cells, including the underground cell specifically.[2359] In relation to the underground cell, Mr Said typically did not allow the police to see who was detained there and no one could enter his office, in which the underground cell was located, without his permission.[2360] Mr Said would appoint Seleka members to guard the cells and would order detainees to be placed in or removed from cells.[2361]

915. Mr Said controlled the weapons at the OCRB and provided uniforms and food to the Seleka stationed there.[2362] Mr Said also provided money to the Seleka for expenses and patrols.[2363]

916. Mr Said was involved in the mistreatment of some detainees at the OCRB and ordered that some detainees be beaten.[2364] Benjamin Mallo frequently told Mr Said that detainees were being mistreated and, at times, tied using the *arbatachar* method.[2365] Mr Said was present when detainees who had been mistreated were brought out from the underground cell in his office.[2366] Mr Said did not do anything to stop torture occurring or address allegations of torture which were brought to his attention.[2367] Mr Said was aware of the

[2353] *See* below paras 1112-1123.
[2354] *See* below para. 1123.
[2355] *See* below para. 1125.
[2356] *See* below para. 1123.
[2357] *See* below para. 1124.
[2358] *See* below para. 1126.
[2359] *See* below para. 1126-1127.
[2360] *See* below para. 1127.
[2361] *See* below paras 1122, 1125.
[2362] *See* below paras 1128-1129.
[2363] *See* below para. 1129.
[2364] *See* below para. 1131.
[2365] *See* below para. 1133.
[2366] *See* below paras 1132, 1134.
[2367] *See* below para. 1133.

poor conditions in the cells.[2368]

917. Mr Said extorted money for the release of detainees.[2369] The families of detainees would often have to pay Mr Said or other Seleka in order for their relatives to be released.[2370]

918. Mr Said decided on what interventions were to be carried out by the OCRB Seleka, established planning lists concerning patrols and gave direct orders to the OCRB Seleka as to where they were to go and what they were to do during operations.[2371]

3. Role of other persons alleged to have committed the crimes with Mr Said

a) Individuals who had roles within the wider Seleka structure

919. The OCRB fell under the remit of Nouradine Adam who was Minister of Public Security.[2372] Nouradine Adam was the overarching authority over the Seleka at the OCRB.[2373] Nouradine Adam appointed Mr Said to the OCRB.[2374] Mr Said reported to Nouradine Adam and Nouradine Adam gave Mr Said instructions.[2375] Nouradine Adam was frequently at the OCRB and gave orders to the Seleka members there, as well as Benjamin Mallo.[2376] Nouradine Adam was sometimes present when detainees at the OCRB were beaten or interrogated.[2377] Nouradine Adam and Mr Said coordinated regarding the provision of food to the Seleka at the OCRB and Nouradine Adam was responsible for issuing badges to the Seleka, some of which contained Mr Said's initials.[2378]

920. Adoum Rakiss was Deputy Director General of the Police and worked closely with Nouradine Adam.[2379] Rakiss coordinated and controlled all the police services.[2380] Although Rakiss was, in theory, the 'hierarchical head' of the OCRB, Mr Said was in charge of the OCRB.[2381] Adoum Rakiss brought prisoners to the OCRB and participated

[2368] *See* below para. 1134.
[2369] *See* below paras 1135-1136.
[2370] *See* below para. 1135.
[2371] *See* below para. 1137.
[2372] *See* below para. 1140.
[2373] *See* below para. 1140.
[2374] *See* below para. 1141.
[2375] *See* below paras 1141-1143.
[2376] *See* below paras 1142-1144.
[2377] *See* below para. 1145.
[2378] *See* below paras 1129, 1142, 1146.
[2379] *See* below para. 1147.
[2380] *See* below paras 1147-1148.
[2381] *See* below paras 1148-1149.

in some missions with those at the OCRB to arrest individuals.[2382] During a meeting regarding the Seleka's departure from the OCRB in August 2013, Michel Djotodia provided money which was handed out by Adoum Rakiss and Mr Said.[2383] Following an intervention from Mr Said, Adoum Rakiss also gave a portion of the money to Benjamin Mallo.[2384]

921. Mahamat Sallet Adoum Kette was the Head of the Military Police set up by Michel Djotodia after 24 March 2013.[2385] Damboucha was a Seleka colonel who coordinated the patrols of the military police.[2386] The military police's instructions came from Nouradine Adam.[2387] Sallet worked closely with Damboucha, and Sallet was hierarchically superior to Damboucha.[2388]

922. Both Sallet and Damboucha worked in close collaboration with Mr Said and Nouradine Adam at the OCRB.[2389] Sallet gave instructions, along with Mr Said, for detainees to be put in the underground cell.[2390] Sallet and Damboucha brought and removed detainees from the OCRB, who on occasion would be tied *arbatachar*.[2391] Mr Said was sometimes present when this occurred and on occasion facilitated, along with Yaya, the removal of detainees from the cells to be put in Mahamat Sallet and Damboucha's vehicles and driven away from the OCRB.[2392]

923. At the time of the commission of the crimes, Fadoul Al Bachar worked closely with Nouradine Adam, often acting as his driver, and he was subsequently appointed as the Deputy Director General of CEDAD.[2393]

b) Individuals who were stationed at the OCRB

924. Tahir was a Seleka colonel at the OCRB.[2394] Tahir was Mr Said's deputy at the OCRB

[2382] *See* below para. 1150.
[2383] *See* below para. 1151.
[2384] *See* below para. 1151.
[2385] *See* below paras 1152-1153.
[2386] *See* below para. 1153.
[2387] *See* below para. 1152.
[2388] *See* below paras 1153-1154.
[2389] *See* below paras 1154, 1156-1157.
[2390] *See* below para.1154.
[2391] *See* below para. 1155.
[2392] *See* below para. 1155.
[2393] *See* below para. 1158.
[2394] *See* below para. 1160.

and had a security role at the OCRB.[2395] Tahir and Mr Said worked in close coordination at the OCRB and they often went out in their vehicles to conduct operations.[2396] Along with Mr Said, Tahir was also involved in providing the Seleka with food at the OCRB and extorting money from the families of detainees at the OCRB.[2397] Tahir was present during the detention of a number of victims at the OCRB.[2398]

925. Yaya was a Seleka commander from Bria, who was stationed at the OCRB.[2399] Yaya arrived at the OCRB with Mr Said and was another Seleka under his command.[2400] Yaya was regularly at the OCRB and often slept there.[2401] Yaya was responsible for overseeing the planning and activities of the duty officers and in Mr Said's absence would make decisions following orders he received from Mr Said.[2402] Yaya was also involved in conducting patrols and transferring detainees from the OCRB, and worked with Sallet, Damboucha and Mr Said in this regard.[2403] Yaya, along with Mr Said and Tahir, extorted money in exchange for the release of detainees from the OCRB.[2404] Yaya was briefly detained at the OCRB following the escape of the Yalo brothers, however, he was able to leave his cell and continue to carry his activities to some degree.[2405] Yaya questioned and tortured detainees at the OCRB.[2406]

926. Noiro was designated as a guard of the underground cell at the OCRB by Mr Said and was one of the OCRB Seleka under Mr Said.[2407] Noiro was responsible for the underground cell and if relatives of detainees in the underground cell brought food or wished to visit, then this had to go through Noiro.[2408]

c) The OCRB Seleka

927. There were over 30 Seleka members present at the OCRB during the period relevant to

[2395] *See* below para. 1160.
[2396] *See* below para. 1161.
[2397] *See* below paras 1161-1162.
[2398] *See* below paras 1162-1164.
[2399] *See* below para. 1165.
[2400] *See* below paras 1165-1166.
[2401] *See* below para. 1167.
[2402] *See* below para. 1166.
[2403] *See* below paras 1155, 1168.
[2404] *See* below para. 1168.
[2405] *See* below para. 1169.
[2406] *See* below paras 1169-1170.
[2407] *See* below para. 1172.
[2408] *See* below para. 1172.

the charges, although they arrived at different times.[2409] The OCRB Seleka were assigned duties, and held ranks, with lower-ranking Seleka reporting to their commanders or duty officers.[2410] The OCRB Seleka had weapons of all calibres and there was a system in place to ensure that the OCRB Seleka, who were on duty, had a weapon they could use.[2411] The OCRB Seleka had duty officers who would assign shifts and specific duties to other Seleka, such as carrying out patrols, guarding the premises and running the detention facilities.[2412] The OCRB Seleka had a number of vehicles at the OCRB and at least two service vehicles, one used by Mr Said and one by Tahir Babikir[2413] (hereinafter: 'Tahir').[2414]

4. Role of the police at the OCRB

928. During the period relevant to the charges, Central African police officers were also present at the OCRB.[2415] Henri Wanzet Linguissara was the Director General of the Police but did not interfere with the work at the OCRB.[2416] Louis Mazangue was the first director of the OCRB and officially appointed as director on 18 April 2013.[2417] Mazangue did not have a direct role at the OCRB and just wrote reports.[2418] Mazangue did not give orders or intervene in the affairs of prisoners.[2419] Mazangue was replaced by Benjamin Mallo, who arrived at the OCRB after the *Grand Rapport* with Nouradine Adam in April 2013.[2420] Benjamin Mallo was officially appointed as Director of the OCRB on 8 July 2013 and remained there until the end of August 2013, when the Seleka left the OCRB.[2421]

929. Benjamin Mallo had a limited role at the OCRB and had no control over the Seleka stationed there, who were under Mr Said's command.[2422] In addition to Benjamin Mallo, there were about four police officers who resumed work at the OCRB after the *Grand*

[2409] *See* below paras 1174-1175.
[2410] *See* below para. 1176.
[2411] *See* below para. 1177.
[2412] *See* below para. 1176.
[2413] *See* below paras 1160-1164.
[2414] *See* below para. 1177.
[2415] *See* below paras 1178-1187.
[2416] *See* below para. 1178.
[2417] *See* below paras 1179-1180.
[2418] *See* below para. 1180.
[2419] *See* below para. 1180.
[2420] *See* below para. 1181.
[2421] *See* below para. 1181.
[2422] *See* below paras 1181-1183.

Rapport with Nouradine Adam.[2423]

930. The OCRB did not function as normal during the period relevant to the charges.[2424] There were two parallel administrations at the OCRB: the Seleka and the police.[2425] The police could not perform regular duties as they would in normal times.[2426] Due to the pressure they received, not all police officers were present on a regular basis at the OCRB, and when they were present, they would only be at the OCRB during the day, leaving after their working hours.[2427] Although the police at the OCRB tried to perform their duties, they could not receive criminal complaints, could not properly investigate, nor could they arrest individuals or carry out normal patrols.[2428] Similarly, while the Seleka were at the OCRB, the police could not remove prisoners from the cells or bring them before the prosecutor.[2429] Ultimately, the presence of the police at the OCRB was purely ornamental and they only had an observing function.[2430] It was difficult for the police to confront the Seleka, who could do what they wanted.[2431]

5. Charged crimes

931. In its assessment of the individual incidents, the Chamber notes that the witnesses used the words ‘arrest’ or ‘detention’ to describe the manner in which the Seleka apprehended victims and confined them in various locations, including at the OCRB. However, the Chamber clarifies that the use of these terms by the witnesses, in and of itself, did not imply that the Seleka carried out a lawful arrest pursuant to valid warrant. In its assessment of the charged incidents, the Chamber uses ‘detain’ in the ordinary sense of the word, meaning to keep someone in confinement, and not implying any legal connotation. The Chamber uses the word ‘arrest’ when referring to the act of taking someone into detention or custody, without implying the existence of any lawful authority to do so.

[2423] *See* below para. 1182.
[2424] *See* below para. 1183.
[2425] *See* below para. 1183.
[2426] *See* below para. 1183.
[2427] *See* below para. 1184.
[2428] *See* below paras 1185-1186.
[2429] *See* below paras 1186-1187.
[2430] *See* below para. 1186.
[2431] *See* below para. 1186.

a) Incident A

932. On or about [REDACTED] May 2013, Mr Said gave instructions for P-1289, a Christian man of [REDACTED] ethnicity, [REDACTED] to be arrested.[2432] P-1289 was arrested by Mr Said at the Ledger Hotel, and transferred by armed Seleka members including Colonel Mahamat Sallet, to the OCRB.[2433] P-1289 was arrested because he was perceived to be a supporter of François Bozizé as he had been identified as someone who worked [REDACTED].[2434] [REDACTED].[2435] The Seleka members arresting P-1289 refused to allow him to inform anyone that he had been taken into custody.[2436]

933. While transporting P-1289 to the OCRB, Colonel Mahamat Sallet slapped and punched P-1289 in the head.[2437] Colonel Mahamat Sallet also threatened to kill him when he asked about the reason for his detention but then told him that he would be interrogated about his work [REDACTED].[2438] Upon arrival at the OCRB, Sallet slapped and spat on P-1289, another Seleka member slapped him, 'boxed' him and threatened to kill him and the OCRB Seleka members seized his wallet, phone, some papers and his clothes.[2439] The OCRB Seleka members put him, wearing only his underwear, in a cell in the courtyard.[2440] The cell had no windows, bed, or toilet and its walls were marked by bullet-holes and stained with blood.[2441] Colonel Mahamat Sallet returned P-1289's clothes to him that night when he complained that he could not sleep wearing only his underwear.[2442] P-1289 was unable to sleep all night due to the stress caused by his situation.[2443] P-1289 was aware that other detainees were mistreated or killed, and was repeatedly warned that he would be tortured or killed if he did not do as the Seleka commanded.[2444]

934. The following morning, friends and family members of P-1289 arrived at the OCRB but

[2432] *See* below paras 1189-1191.
[2433] *See* below paras 1190-1194, 1196.
[2434] *See* below paras 1189-1190, 1193, 1201, 1203.
[2435] *See* below para. 1189.
[2436] *See* below para. 1200.
[2437] *See* below para. 1192.
[2438] *See* below para. 1193.
[2439] *See* below para. 1194.
[2440] *See* below para. 1194.
[2441] *See* below para. 1198.
[2442] *See* below para. 1198.
[2443] *See* below paras 1199.
[2444] *See* below paras 1193-1194, 1199.

were denied access to him.[2445] The Seleka refused to inform them whether P-1289 was being held there.[2446] P-1289 was taken to the Ministry of Public Security, where he was interrogated about his work [REDACTED] and threatened by Nouradine Adam.[2447] Nouradine Adam told him that [REDACTED], before ordering his release and [REDACTED].[2448]

935. P-1289 suffered psychological and material harm as a consequence of the time spent at the OCRB.[2449]

b) Incident B

936. P-0481, a Christian of [REDACTED] ethnicity, was [REDACTED] until the Seleka's arrival in Bangui on 24 March 2013.[2450] P-0481 was in hiding from the Seleka in Bangui when, sometime shortly after [REDACTED] 2013,[2451] he went to meet [REDACTED] leave Bangui and '[REDACTED]'.[2452] Armed Seleka members led by Hissene Mahamat Sallet arrested him, handcuffed and placed him in an armed pick-up vehicle.[2453]

937. The Seleka first took P-0481 to the Ledger Hotel.[2454] Once at the Ledger Hotel, Nouradine Adam came to the vehicle P-0481 was in and asked him if [REDACTED].[2455] When P-0481 confirmed that he was, Nouradine Adam asked Hissène Mahamat Sale to take P-0481 to the OCRB.[2456] The Seleka brought P-0481 to the OCRB between [REDACTED] that same day and, on the orders of an OCRB Seleka member, placed him in a cell [REDACTED].[2457]

938. P-0481 was detained for approximately [REDACTED] at the OCRB.[2458] His hands were tied during the first [REDACTED] of his detention, including while he slept.[2459] As a

[2445] *See* below para. 1200.
[2446] *See* below para. 1200.
[2447] *See* below para. 1201.
[2448] *See* below paras 1201-1203.
[2449] *See* below para. 1204.
[2450] *See* below para. 1206.
[2451] *See* below para. 1212.
[2452] *See* below paras 1206-1207.
[2453] *See* below paras 1207-1208, 1210.
[2454] *See* below para. 1210.
[2455] *See* below para. 1210.
[2456] *See* below para. 1210.
[2457] *See* below paras 1211-1212.
[2458] *See* below paras 1212, 1225.
[2459] *See* below para. 1213.

result, P-0481 had difficulty relieving himself on his own.[2460] P-0481's co-detainee would assist P-0481 by partially undressing P-0481 so that he could relieve himself in a bucket in their cell.[2461] The bucket did not have a cover, which resulted in a 'very bad smell inside the cell'.[2462] The OCRB Seleka did not provide P-0481 with food or medical assistance during his detention, but his co-detainee shared the food brought by his relatives and P-0481 received some biscuits from a person he believed to be [REDACTED].[2463] P-0481 saw and/or heard other detainees being mistreated, tortured and killed during the time that he was detained at the OCRB.[2464] One night, members of the OCRB Seleka forced P-0481 and another detainee to dispose of the bodies of a number of persons by throwing them into the Oubangui River.[2465] Subsequently, these OCRB Seleka members told P-0481 and the other detainee that they would also be killed.[2466]

939. Approximately [REDACTED] after he was detained (around [REDACTED] or shortly thereafter), Nouradine Adam asked for P-0481 to be taken out of his cell and questioned him regarding Bozizé and his own political beliefs.[2467] Nouradine Adam then left and members of the OCRB Seleka beat P-0481 as he lay on the floor with his hands tied.[2468] The members of OCRB Seleka also burned P-0481's hands [REDACTED].[2469] While they were beating him, the OCRB Seleka members swore at P-0481 and referred to him as a Bozizé supporter.[2470] They said that he had a great deal of information on Bozizé and wanted to know how Bozizé was managing the country and why some personalities on 'their side' had been killed.[2471] The beating and burning of P-0481 stopped when Nouradine Adam returned from his office.[2472]

940. P-0481 was subsequently visited and interrogated by a prosecutor and police officer.[2473] On or around [REDACTED] 2013, members of the OCRB Seleka transported P-0481 to

[2460] *See* below para. 1214.
[2461] *See* below para. 1214.
[2462] *See* below para. 1214.
[2463] *See* below paras 1213-1214.
[2464] *See* below para. 1215.
[2465] *See* below para. 1216.
[2466] *See* below para. 1216.
[2467] *See* below paras 1217-1218.
[2468] *See* below para. 1219.
[2469] *See* below para. 1219.
[2470] *See* below para. 1220.
[2471] *See* below para. 1220.
[2472] *See* below para. 1221.
[2473] *See* below para. 1223.

a court, where he was asked general questions but was not given the reason for his detention.[2474] From the court he left the custody of the Seleka and [REDACTED].[2475]

941. P-0481 suffered psychological and material harm as a consequence of the time spent at the OCRB.[2476]

c) Incident C

942. P-2692, a male Christian of Gbaya ethnicity and a [REDACTED] who lived near [REDACTED] the 7th arrondissement at the time, was arrested by armed Seleka members on or about [REDACTED] June 2013 and brought to Camp Kassai and then to the OCRB.[2477] At Camp Kassai, Seleka members tied P-2692 using the *arbatachar* method, poured water on him and threw a large stone and broken bricks at him.[2478] P-2692 lost consciousness as a result of this treatment.[2479] After P-2692 was woken up, a Seleka Colonel at Camp Kassai questioned him and kept him there overnight.[2480] In the aftermath of the beating, P-2692 was bleeding from the head, ear and hand, the wounds on his wrists, elbows and ankles from having been tied in the *arbatachar* manner were also bleeding, and his finger was swollen and 'felt like it was broken'.[2481]

943. The next morning, the Seleka transported P-2692 and another detainee to the OCRB.[2482] P-2692 did not know that they were going to the OCRB until they arrived there.[2483] The Seleka transporting him criticised the Christians who had been ruling the country for 50 years, and said that the Seleka had come to develop the country and that they (P-2692 and his fellow detainee) were disturbing them.[2484] Upon arrival at the OCRB, an 'OCRB Colonel' whom the witness believed to be in charge of the OCRB[2485] questioned P-2692 and took his name, accusing him of [REDACTED], which P-2692 denied.[2486] P-2692 was then told to call his relative, who then paid the 'OCRB Colonel' a ransom for his

[2474] *See* below para. 1224.
[2475] *See* below para. 1225.
[2476] *See* below para. 1226.
[2477] *See* below paras 1228-1229.
[2478] *See* below para. 1230.
[2479] *See* below para. 1230.
[2480] *See* below para. 1230.
[2481] *See* below para. 1230.
[2482] *See* below para. 1231.
[2483] *See* below para. 1231.
[2484] *See* below para. 1231.
[2485] *See* below paras 1232-1236.
[2486] *See* below para. 1232.

release on the same day that P-2692 arrived at the OCRB.[2487] After being detained for about three hours, he was released to get medical treatment and his hand was put in a cast.[2488]

944. On or about [REDACTED] June 2013, armed Seleka members, one of whom P-2692 recognised as a Seleka member from the OCRB, arrived at P-2692's home and informed him that 'the Colonel' wanted to question him.[2489] They took him to Camp Kassai, where P-2692 was told he was in detention.[2490] Four Seleka members arrived from the OCRB and transferred P-2692 and a fellow detainee, who was a FACA member, in the boot of a large vehicle to the OCRB.[2491]

945. Upon arrival at the OCRB, the OCRB Seleka put him in a cell that was so cramped that the cellmates had to lie on their sides 'head to toe' and alternate with others who were sitting on a ledge to sleep.[2492] The following day, the 'OCRB Colonel' told P-2692 he was going to be kept in detention 'for security matters and for investigation'.[2493] The 'OCRB Colonel' and the OCRB Seleka interrogated P-2692 about his relationship with a public personality from Boy Rabe linked to François Bozizé [REDACTED] and threatened him almost daily, despite P-2692 denying any such link.[2494] On one occasion, the OCRB Seleka brought P-2692 to [REDACTED], telling him that [REDACTED] if he did not tell the truth about his relationship with this personality.[2495]

946. P-2692 witnessed the beating, whipping, and mistreatment of fellow detainees at the OCRB.[2496] The OCRB Seleka allowed P-2692 out of his cell at least during visiting hours and he was able to receive food and medication from his family, as his [REDACTED].[2497] The OCRB Seleka detained P-2692 at the OCRB the second time for approximately 20 days, until P-2692's relative paid the 'OCRB Colonel' a ransom in exchange for P-2692's release once again.[2498] The OCRB Seleka released P-2692 on or about [REDACTED]

[2487] *See* below para. 1232.
[2488] *See* below para. 1232.
[2489] *See* below para. 1237.
[2490] *See* below para. 1239.
[2491] *See* below para. 1237.
[2492] *See* below paras 1237, 1240.
[2493] *See* below para. 1238.
[2494] *See* below para. 1239.
[2495] *See* below para. 1239.
[2496] *See* below para. 1241.
[2497] *See* below para. 1240.
[2498] *See* below para. 1242.

July 2013.[2499]

947. P-2692 suffered psychological and material harm as a consequence of the time spent at the OCRB.[2500]

d) Incident D

948. In respect of Incident D, for the reasons set out in the section titled 'Scope of the Charges', the Chamber dismissed the charges in relation to Incident D.[2501] Therefore, the Chamber does not consider Incident D in this section.

e) Incident E

949. In respect of Incident E, the Chamber finds the evidence of P-0622, one of the alleged victims of this incident, to lack credibility.[2502] The only other evidence relevant to P-0622's alleged detention and mistreatment at the OCRB is that of P-0481, whose account contradicts that of P-0622 in respect of this incident. Accordingly, the Chamber does not enter factual findings concerning Incident E.

f) Incident F

950. In respect of Incident F, the Chamber does not enter factual findings for the reasons set out in the evidentiary analysis below.[2503]

g) Incident G

951. [REDACTED] was a former FACA soldier who had not resumed work following the Seleka coup d'état and was in Bangui because [REDACTED].[2504] On 27 June 2013, he met some former FACA colleagues who had joined the Seleka at [REDACTED].[2505] [REDACTED]'s former colleagues had arranged the meeting ostensibly so that they could [REDACTED].[2506] At [REDACTED], an altercation broke out and Seleka members beat [REDACTED], who said to them that he was working for the country and

[2499] *See* below para. 1243.
[2500] *See* below para. 1244.
[2501] *See* above para. 14-16.
[2502] *See* above paras 120-125.
[2503] *See* below paras 1245-1246.
[2504] *See* below para. 1248.
[2505] *See* below para. 1249.
[2506] *See* below paras 1249-1250.

not for the Seleka.[2507] The Seleka members took [REDACTED] in a vehicle to the OCRB.[2508]

952. P-2607 and family members of [REDACTED] presented themselves at the OCRB a few hours later, looking for him.[2509] Mr Said came out of the OCRB and instructed the Seleka not to let them through.[2510] Mr Said told [REDACTED]'s family and P-2607 that they did not know why [REDACTED] was there and that they should not be there.[2511] Mr Said spoke to some Seleka members, who then ran into the compound.[2512] A short time later, a vehicle emerged from the OCRB and went towards the Palais de la Renaissance.[2513] P-2607 saw [REDACTED] in the back of this vehicle.[2514] P-2607 and [REDACTED]'s family heard shots being fired.[2515] The Seleka threatened them and [REDACTED]'s family left the OCRB.[2516] [REDACTED]'s body was brought to the Hôpital Communautaire in Bangui that same night and the cause of death was established as cranial trauma caused by gunshot.[2517]

953. [REDACTED]'s family members suffered psychological and material harm as a result of his killing.[2518]

h) Incident H

954. On 4 July 2013, the Seleka apprehended 16 persons, including P-1180, P-1743, P-2263 and P-2295, attempting to identify and punish those involved in distributing flyers calling for a *ville morte*, which meant a peaceful protest in which all activities stop and everyone stays at home.[2519]

955. P-1180 (the 'First Detainee') is a Christian of [REDACTED] ethnicity and was working at the [REDACTED] in Bangui at the time of his arrest.[2520] P-1180 was asked by a

[2507] *See* below paras 1251-1252.
[2508] *See* below paras 1251-1257.
[2509] *See* below paras 1254-1258.
[2510] *See* below para. 1256.
[2511] *See* below para. 1257.
[2512] *See* below para. 1257.
[2513] *See* below para. 1257.
[2514] *See* below para. 1257.
[2515] *See* below para. 1258.
[2516] *See* below para. 1258.
[2517] *See* below paras 1259-1263.
[2518] *See* below para. 1264.
[2519] *See* below paras 1266-1285.
[2520] *See* below para. 1267.

colleague to make copies of a paper at a print shop.[2521] After P-1180 had printed the copies, a man in plain clothes grabbed them from him and they engaged in a physical altercation.[2522] The man, who P-1180 realised was a Seleka Colonel, told him that he had finally caught the person who was distributing the flyers.[2523] P-1180 tried to explain that he did not know what was written on the paper and that it belonged to a colleague.[2524] The Seleka Colonel threatened P-1180 and ordered both P-1180 and the person who had made the copies at the print shop (the 'Second Detainee'), to get in a pick-up truck.[2525]

956. The Seleka Colonel then took P-1180 and the Second Detainee to Camp de Roux, where a Seleka General ordered that they be interrogated and beaten.[2526] During the interrogation, the General accused the two prisoners of being 'Bozizé's men, trying to topple the government'.[2527] The Seleka Colonel then ordered that the Second Detainee be placed in a cell, and took P-1180 to his place of work to identify the colleague who had given him the flyer to copy.[2528] As the colleague was not there, the Seleka members interrogated her supervisor, [REDACTED], and [REDACTED], P-0358.[2529] The Seleka then took P-1180, together with his colleague's supervisor, [REDACTED], and P-0358, back to Camp de Roux, where they were interrogated again about the flyer.[2530] During the interrogation, the Seleka General claimed that Bozizé had sent them and accused them of using the paper to incite people and trying to overthrow the government.[2531] P-0358 was released and [REDACTED] and P-1180 were detained.[2532] Before leaving, P-0358 advised the Seleka that [REDACTED] should not have any marks of torture on them when they left and he was told by the Seleka member who drove him back to his place of work that this intervention had saved the lives of the two men.[2533]

957. The Seleka Colonel took P-1180 in his vehicle, continued to drive around Bangui together with several Seleka members and proceeded to arrest multiple people.[2534] The

[2521] *See* below para. 1267.
[2522] *See* below para. 1268.
[2523] *See* below para. 1268.
[2524] *See* below para. 1268.
[2525] *See* below para. 1268.
[2526] *See* below para. 1270.
[2527] *See* below para. 1270.
[2528] *See* below paras 1270-1271.
[2529] *See* below para. 1271.
[2530] *See* below para. 1271.
[2531] *See* below para. 1271.
[2532] *See* below para. 1271.
[2533] *See* below para. 1271.
[2534] *See* below para. 1272.

Seleka Colonel arrested a man on Avenue Boganda, after asking him to pick up a paper from the ground (the 'Third Detainee').[2535] At the Combattant Market, the Colonel arrested six people in total (the Fourth, Fifth, Sixth, Seventh and Eighth Detainees).[2536] A man was reading a document that he had found on the ground when the Seleka members surrounded him, removed it from his hands and attempted to put him in their vehicle (the 'Fifth Detainee').[2537] When P-1743 (the 'Eighth Detainee') intervened, the Seleka members arrested them both without informing them of the reasons for their arrest, threw them into the vehicle and seized their mobile phones.[2538] P-1743 is a Christian and, at the time of the events, he was working as [REDACTED].[2539] The Seleka Colonel also arrested three other persons (the 'Fourth Detainee', 'Sixth Detainee', and 'Seventh Detainee'), who were trying to intervene in the Seleka's arrest of persons, as well as another person at the market (the 'Ninth Detainee').[2540] The Seleka members transported them to Camp de Roux, where they were beaten on arrival and detained.[2541]

958. The Seleka Colonel went out again with P-1180 and another detainee and apprehended three persons in the Fouh neighbourhood.[2542] He arrested a young man carrying a car engine battery, which the Colonel accused him of having stolen.[2543] The Seleka Colonel also ordered four men who were in front of a [REDACTED] to stand up, put two of them, P-2263 (the 'Tenth Detainee') and another person (the 'Eleventh Detainee'), in the back of the vehicle and seized their possessions, without giving any reasons or explanation for having done so.[2544] P-2263 is a Christian and was working as a [REDACTED] at the time of the events.[2545]

959. The Colonel arrested a young man who was [REDACTED] in the proximity of the [REDACTED] (the 'Twelfth Detainee').[2546] The Colonel asked the man to pick up a piece of paper that was on the ground and bring it to him, before detaining the man.[2547]

[2535] *See* below para. 1272.
[2536] *See* below paras 1273-1274.
[2537] *See* below para. 1274.
[2538] *See* below para. 1274.
[2539] *See* below para. 1274.
[2540] *See* below paras 1273-1274.
[2541] *See* below para. 1275.
[2542] *See* below paras 1275-1276.
[2543] *See* below para. 1276.
[2544] *See* below para. 1276.
[2545] *See* below para. 1276.
[2546] *See* below para. 1278.
[2547] *See* below para. 1278.

The Colonel then searched for flyers in a photocopier machine kiosk and a tailor shop and, not finding anything, stole a machine from each of the two premises.[2548] The Colonel attempted to apprehend a person in the tailor shop, firing at him and missing when he ran away.[2549] The Colonel then arrested another man who was standing on the side of the street holding a bag.[2550] The Colonel then stopped at what appeared to be his house and offloaded the machines and the car battery.[2551]

960. A different group of Seleka members then intercepted the Colonel's vehicle and arrested the detainees, taking them to Camp Béal, where they were interrogated and threatened.[2552] The Seleka members beat the detainees and one of the Seleka Generals hit them with his pistol to the point that P-1180 lost consciousness.[2553] The Seleka Colonel who had initially arrested the group of detainees arrived at Camp Béal, showed one of the Seleka Generals a piece of paper and stated that Michel Djotodia requested that the detainees be brought to him at Camp de Roux.[2554] The Seleka Colonel then placed the detainees back in his truck and departed.[2555] The Colonel subsequently stopped near a tree on the bank of the Oubangui River, removed two of the men who had been apprehended in connection to the flyers from the vehicle and shot them.[2556] The Colonel then drove them back to Camp de Roux, where Seleka members beat and whipped them upon arrival, threatening and cursing them as they thought they were 'Bozizé's men'.[2557]

961. P-2295 (the 'Thirteenth Detainee') is a Christian of [REDACTED] ethnicity.[2558] P-2295 was at a [REDACTED] when he heard people saying that there would be a strike and a boy handed him a paper mentioning said strike.[2559] A man wearing a 'jeans suit' began asking P-2295 questions about the paper, to which P-2295 responded that he had heard that there would be a strike on Monday and that anyone moving through Bangui would be apprehended.[2560] Two other men approached P-2295 and the three of them grabbed

[2548] *See* below para. 1278.
[2549] *See* below para. 1278.
[2550] *See* below para. 1278.
[2551] *See* below para. 1279.
[2552] *See* below para. 1280.
[2553] *See* below para. 1280.
[2554] *See* below para. 1280.
[2555] *See* below para. 1281.
[2556] *See* below para. 1281.
[2557] *See* below para. 1281.
[2558] *See* below para. 1282.
[2559] *See* below para. 1282.
[2560] *See* below para. 1282.

him and dragged him out of [REDACTED], despite P-2295 telling them that he did not understand what was happening and asking them to leave him alone.[2561] An unmarked vehicle stopped and the Seleka members put P-2295 inside and drove away without informing him where he was being taken or why.[2562] Although bystanders tried to alert a nearby FOMAC military patrol vehicle that P-2295 had been taken away by the Seleka, the Seleka managed to hide him from the sight of the patrol.[2563] The Seleka took P-2295 to Camp de Roux.[2564]

962. Three additional persons were apprehended and taken to Camp de Roux in similar circumstances on the same day.[2565] One person (the 'Fourteenth Detainee') was the operator of a [REDACTED] in the [REDACTED] area and had been arrested by the Colonel, who claimed that he had protest papers.[2566] The Colonel arrested another man (the 'Fifteenth Detainee') in PK5 while he was visiting a friend who was engaged in commerce, in circumstances where there were papers on the ground and a print shop nearby.[2567] In subsequent proceedings before the *Tribunal de Grande Instance*, the prosecution accused the Fifteenth Detainee of 'raising awareness', without providing details as to what he was alleged to have done.[2568] The Colonel arrested a man who was selling cellular phone credit on the street, at PK0 (the 'Sixteenth Detainee').[2569]

963. The Seleka members registered the detainees at Camp de Roux. [2570] [REDACTED] was released while the group of detainees were in detention at Camp de Roux.[2571]

964. After approximately seven days, on or about 10 July 2013, the Seleka transferred the group of 16 detainees to the OCRB.[2572] Upon arrival, the OCRB Seleka ordered the detainees to remove their clothing, so that they were wearing only their underwear, and to lie face-down.[2573] The Seleka members threw sand, soil or clay mixed with water on

[2561] *See* below para. 1283.
[2562] *See* below para. 1283.
[2563] *See* below para. 1284.
[2564] *See* below para. 1284.
[2565] *See* below para. 1285.
[2566] *See* below para. 1285.
[2567] *See* below para. 1285.
[2568] *See* below para. 1285.
[2569] *See* below para. 1285.
[2570] *See* below para. 1286.
[2571] *See* below para. 1288.
[2572] *See* below para. 1288.
[2573] *See* below para. 1290.

their backs and whipped them multiple times.[2574] Two detainees soiled themselves during this beating.[2575] P-1743's family witnessed his beating and he felt that he lost their respect as a result.[2576] The detainees were then forced to run into a cell while the OCRB Seleka kicked them with their boots and beat them with batons.[2577]

965. The detainees were placed together in a cell that was so crowded that they had to take turns sitting down and sleeping.[2578] The cell lacked basic amenities, there was a foul odour emanating from the toilets next to the cell and the detainees urinated in water bottles from the second day of detention.[2579] The detainees' families were allowed to visit them and provided food and medicine for them, as no medical treatment was provided in the aftermath of their mistreatment.[2580]

966. While the detainees were held at the OCRB, a UNHCHR fact-finding mission (which took place between 20 June and 11 July 2013) visited the premises of the OCRB together with Prosecutor Tolmo, asked the detainees about their conditions of detention and requested the release of a child considered too young to be imprisoned who was detained together with them.[2581] The fact-finding mission noted in its report that the penitentiary authorities and the Prosecutor of the Republic 'failed to invoke any legal basis justifying the deprivation of liberty' of the group of detainees.[2582]

967. The OCRB Seleka physically mistreated the group of 16 detainees and threatened them, and the detainees could hear other persons detained at the OCRB being beaten or see signs of mistreatment on their bodies.[2583] An OCRB Seleka member fired a shot at the wall of their cell while the detainees were praying.[2584] When the OCRB Seleka members asked the detainees for money in exchange for their release and P-1180 replied that his family had no money to spare, one of the OCRB Seleka members beat him.[2585] OCRB Seleka members pointed at the detainees and accused them of being pro-Bozizé and

[2574] *See* below para. 1290.
[2575] *See* below para. 1290.
[2576] *See* below para. 1290.
[2577] *See* below para. 1290.
[2578] *See* below para. 1291.
[2579] *See* below para. 1291.
[2580] *See* below para. 1292.
[2581] *See* below para. 1293.
[2582] *See* below para. 1293.
[2583] *See* below paras 1294-1295.
[2584] *See* below para. 1294.
[2585] *See* below para. 1294.

against the Seleka regime.[2586]

968. Regarding compliance with legal procedures, the 16 detainees were questioned during their detention at Camp de Roux and were interrogated by a prosecutor on more than one occasion during their detention.[2587] *Procès-verbaux* were recorded, but the information included did not always correspond to the statements given by the detainees and at least P-2263 felt pressured to sign a statement that he indicated to have been incorrect.[2588] In accordance with the CAR Criminal Procedure Code, the detainees should have been released from pre-trial detention on 10 July 2013.[2589] On 11 July 2013, custody orders were issued against them for the charge of an 'act which is of a nature to compromise public security, occasion serious political unrest, stir up hatred of the Government or offend against the laws of the country' (hereinafter: 'Act of a Nature to Compromise Public Security'), which is punishable by a term of imprisonment ranging from one to five years in CAR.[2590]

969. After approximately one week at the OCRB, on or about 17 July 2013, the detainees were transferred to Ngaragba prison, where they were kept in detention for approximately six weeks.[2591] Upon arrival at Ngaragba prison, the Seleka members and the commander of the prison beat the detainees.[2592] During this time, the detainees contacted several lawyers through their families and were able to raise money to fund their legal defence.[2593] After hearing that lawyers were working on the detainees' defence, the Ngaragba prison commander prohibited them from receiving any visitors.[2594] Visits were reinstated once another official took over the prison.[2595]

970. The detainees were tried for an Act of a Nature to Compromise Public Security at the *Tribunal de Grande Instance* in a trial held over a few weeks from 29 July 2013 to 30 August 2013.[2596] The detainees were legally represented by several lawyers.[2597] During

[2586] *See* below para. 1294.
[2587] *See* below paras 1298-1302.
[2588] *See* below paras 1298, 1300.
[2589] *See* below para. 1289.
[2590] *See* below para. 1301.
[2591] *See* below paras 1296, 1303.
[2592] *See* below para. 1304.
[2593] *See* below para. 1306.
[2594] *See* below para. 1306.
[2595] *See* below para. 1306.
[2596] *See* below paras 1307-1310.
[2597] *See* below paras 1306-1307.

the hearings, armed Seleka members threatened the detainees and displayed no respect for the proceedings.[2598] Verdicts were issued in respect of the detainees on 30 August 2013.[2599] The First, Tenth and Eleventh Detainees were acquitted, while the remaining detainees received suspended sentences: the Second, Third, Fifth, Seventh, Twelfth and Fifteenth Detainees received a six-month sentence, the Fourteenth and Sixteenth Detainees received an eight-month sentence, the Ninth Detainee received a 10-month sentence, and the Fourth, Sixth and Eighth Detainees received a 12-month sentence.[2600] The records provide no indication of the reasons why the detainees received different sentences.[2601]

971. The witnesses suffered different types of harm in the aftermath of their detention, ranging from psychological, physical and material harm as a consequence of time spent at the OCRB.[2602]

i) Incident I

972. P-1429 is a Christian of the [REDACTED] ethnicity, who worked as a [REDACTED] at the time of the events.[2603] In [REDACTED] July 2013, P-1429 [REDACTED].[2604] One of [REDACTED] asked [REDACTED] to [REDACTED] and they agreed.[2605] The [REDACTED] was a former FACA [REDACTED] under the Bozizé regime.[2606] P-1429 received a call from [REDACTED] from the [REDACTED], where they had been apprehended by the Seleka because of [REDACTED], which were linked to the former FACA [REDACTED].[2607] On arrival at the [REDACTED], P-1429 was informed by [REDACTED] that a Seleka commander had taken [REDACTED] to [REDACTED].[2608] Having heard reports on the radio of people being abducted by the Seleka and often killed, P-1429 believed that he had to find [REDACTED] as he feared that the Seleka would kill them too.[2609] At [REDACTED], P-1429 was told to look for them in

[2598] *See* below para. 1308.
[2599] *See* below para. 1310.
[2600] *See* below para. 1310.
[2601] *See* below para. 1310.
[2602] *See* below para. 1311.
[2603] *See* below para. 1313.
[2604] *See* below para. 1314.
[2605] *See* below para. 1314.
[2606] *See* below para. 1314.
[2607] *See* below paras 1315, 1318.
[2608] *See* below para. 1315.
[2609] *See* below para. 1315.

[REDACTED] and he went there and enquired about their whereabouts with [REDACTED].[2610] [REDACTED] interrogated [REDACTED] and, once P-1429's involvement in the matter [REDACTED] became apparent, he was detained in a container at the back of a [REDACTED] lorry at [REDACTED].[2611]

973. On or around the third day of P-1429's detention at [REDACTED], P-1429 was interrogated by [REDACTED] Sophil, in the presence of [REDACTED], [REDACTED] and the [REDACTED].[2612] [REDACTED] stated that [REDACTED], but [REDACTED] said that P-1429 was [REDACTED].[2613] The Seleka transferred the detainees, including P-1429 and [REDACTED], to the OCRB.[2614] At the OCRB, P-1429 was introduced to the 'head of the OCRB', Mr Said, who ordered that he be placed in a cell.[2615] Members of the OCRB Seleka placed P-1429 in the cellblock [REDACTED], and placed one of [REDACTED] in a nearby cell, while the other remained [REDACTED], where he slept for the duration of his detention.[2616]

974. During his detention at the OCRB, P-1429 shared his cell with [REDACTED] other detainees and was allowed to leave his cell for a few hours most days and to receive food from [REDACTED].[2617] P-1429 was not physically mistreated during his detention, and [REDACTED] told him that they had not 'been tortured during their detention at the OCRB'.[2618] P-1429 witnessed detainees being mistreated and taken away.[2619]

975. Ultimately, [REDACTED].[2620] One of [REDACTED] was released after one week at the OCRB.[2621] Upon being brought to the tribunal on several occasions thereafter, P-1429 and [REDACTED] were provisionally released in [REDACTED] August 2013, after approximately [REDACTED] days in detention at the OCRB.[2622] Ultimately, the judicial proceedings against P-1429 and [REDACTED] were dismissed on [REDACTED]

[2610] *See* below paras 1316-1317.
[2611] *See* below para. 1317.
[2612] *See* below paras 1319-1320.
[2613] *See* below para. 1320.
[2614] *See* below para. 1322.
[2615] *See* below para. 1322.
[2616] *See* below para. 1323.
[2617] *See* below para. 1323.
[2618] *See* below para. 1326.
[2619] *See* below para. 1323.
[2620] *See* below para. 1321.
[2621] *See* below para. 1324.
[2622] *See* below paras 1324-1325.

September 2013 due to a lack of evidence against them.[2623]

976. P-1429 suffered physical and psychological harm as a result of his detention at the OCRB.[2624]

j) Incident J

977. On or around the night of [REDACTED] July 2013, Mr Said ordered an OCRB Seleka member to lead a team to arrest a FACA member and to retrieve this FACA member 'dead or alive'.[2625] This OCRB Seleka member transmitted the order to the team and informed them that the FACA member was suspected of being 'Anti-Balaka' and of recruiting others into the 'Anti-Balaka', distributing leaflets and carrying out armed robbery.[2626]

978. Around [REDACTED] July 2013, this team ([REDACTED]) went to a house in [REDACTED] Bangui, where Oswald Sanze, a member of the FACA, lived with [REDACTED] P-2931 and a man named [REDACTED].[2627] P-2931 was [REDACTED], and [REDACTED] was a young man from the neighbourhood, [REDACTED].[2628]

979. Members of the OCRB Seleka knocked on the door and when the occupants of the house did not open it, they broke it down and entered the house.[2629] They pointed their weapons at P-2931 and he thought that they were going to kill him.[2630] One member of the OCRB Seleka forcibly removed P-2931 from the house.[2631] During this intervention, Oswald Sanze jumped out of a window in an attempt to flee, and a member of the OCRB Seleka shot him in the head and injured him.[2632]

980. P-2931 and [REDACTED] were not the object of the Seleka intervention and their identities were not known at the time, but they were arrested by members of the OCRB Seleka because they were in Oswald Sanze's home.[2633] Members of the OCRB Seleka

[2623] *See* below para. 1324.
[2624] *See* below para. 1326.
[2625] *See* below paras 1329-1330, 1336, 1339-1340.
[2626] *See* below para. 1339.
[2627] *See* below paras 1328-1330, 1336, 1339-1340.
[2628] *See* below para. 1328.
[2629] *See* below para. 1330.
[2630] *See* below para. 1330.
[2631] *See* below para. 1330.
[2632] *See* below para. 1331.
[2633] *See* below para. 1336.

ordered P-2931 to lie down in the back of a pick-up truck and he was covered with a canvas sheet or tarpaulin.[2634] About 10 minutes later, members of the OCRB Seleka threw Oswald Sanze, who was still alive and breathing with difficulty, on top of P-2931.[2635] P-2931 could smell Oswald Sanze's blood, which was dripping onto his clothing through the canvas sheet and he could hear Oswald Sanze's agony.[2636]

981. About five minutes later, the OCRB Seleka drove to the Hôpital Communautaire in Bangui.[2637] After leaving for about 15 minutes and then discussing amongst themselves what to do, they left Oswald Sanze's body on the ground, thinking that he was already dead, and his death was registered at the hospital on [REDACTED] July 2013.[2638] The OCRB Seleka took P-2931 and [REDACTED] to the OCRB and handed them over to Mr Said.[2639] An oral report on the intervention was provided to Mr Said.[2640]

982. After P-2931 was taken out of the vehicle at the OCRB, Tahir ordered the OCRB Seleka to tie him up.[2641] His arms and legs were tied together in front of him and he was unable to move.[2642] Tahir questioned P-2931 about a weapon belonging to [REDACTED] and, when he denied knowing anything about it, Tahir slapped him, and ordered that he be put in the 'basement'.[2643] P-2931 was then dragged across the ground in the rain.[2644] A Seleka member who appeared to P-2931 to be a leader intervened, and had him untied and put into a prison cell in the cellblock to the side of the OCRB compound.[2645]

983. The cell housed around 13 detainees and was so crowded that there was no space to lie down.[2646] The detainees would urinate and defecate in a container.[2647] All of the detainees were Christians and members of the Seleka threatened them for praying.[2648] Members of the OCRB Seleka told the detainees in his cell to 'strike' P-2931, stole his shoes and later

[2634] *See* below para. 1332.
[2635] *See* below para. 1333.
[2636] *See* below para. 1333.
[2637] *See* below para. 1334.
[2638] *See* below paras 1334-1336.
[2639] *See* below paras 1336, 1341-1342.
[2640] *See* below para. 1342.
[2641] *See* below paras 1343-1344.
[2642] *See* below para. 1345.
[2643] *See* below para. 1346.
[2644] *See* below para. 1346.
[2645] *See* below para. 1346.
[2646] *See* below para. 1347.
[2647] *See* below para. 1347.
[2648] *See* below para. 1348.

made him wash them.[2649] P-2931 was detained with a FACA member, whose hands were paralysed and scarred because he had been tied up by the Seleka, as well as with other detainees who had wounds due to the fact that they had been tied up.[2650] The detainees in the cell would sometimes be given food, but, on most occasions, their families would bring them food.[2651] One night, upon hearing the sound of a vehicle and knocking on the doors of the neighbouring cells, other detainees explained to P-2931 that the OCRB Seleka members were taking detainees to be killed.[2652]

984. Members of the OCRB Seleka did not inform P-2931's family about his detention at the OCRB.[2653] P-2931's [REDACTED] found him there after searching for him.[2654]

985. On [REDACTED] July 2013, P-2931's relative came to the OCRB and took P-2931 home, having paid the Seleka through an intermediary to secure his release.[2655] P-2931 was not given any 'release document' by the OCRB Seleka, nor was he provided with the services of a lawyer or doctor during his detention.[2656]

986. P-2931 suffered physical and psychological harm as a consequence of the time spent at the OCRB.[2657]

987. Members of the OCRB Seleka also apprehended [REDACTED] during the intervention at Oswald Sanze's house, and brought him to the OCRB, where he was interrogated on arrival and subsequently detained.[2658] [REDACTED] was not released at the same time that P-2931 was released.[2659]

k) Incident K

988. In respect of Incident K, the Chamber does not enter factual findings for the reasons set out in the evidentiary analysis below.[2660]

[2649] *See* below para. 1348.
[2650] *See* below para. 1348.
[2651] *See* below para. 1348.
[2652] *See* below para. 1348.
[2653] *See* below para. 1349.
[2654] *See* below para. 1349.
[2655] *See* below para. 1350.
[2656] *See* below para. 1350.
[2657] *See* below para. 1351.
[2658] *See* below paras 1336, 1352.
[2659] *See* below para. 1352.
[2660] *See* below paras 1353-1360.

l) Incident L

989. P-2519, a Christian of [REDACTED] ethnicity, was [REDACTED] prior to the Seleka takeover. Sometime in 2013, after the Seleka entered Bouar, P-2519 [REDACTED] returned to his family in Bangui [REDACTED].[2661] On or about [REDACTED] August 2013, an armed Seleka member, along with other armed Seleka members under his command, encountered P-2519, who was wearing civilian clothes at the time, on the street and offered to bring him to his (P-2519's) intended destination.[2662] Instead, the Seleka brought him to the OCRB.[2663] This Seleka member knew P-2519 and his family [REDACTED] and was aware that he had been [REDACTED].[2664] He did not inform P-2519 that he was arresting him.[2665]

990. Upon P-2519's arrival at the OCRB, a Seleka captain registered P-2519 and questioned him about his identity and profession, and seized his ID card, mobile phone and money.[2666]

991. Following this, members of the OCRB Seleka, together with Seleka members commanded by the person who apprehended him, forced P-2519 to undress to his underwear, physically injured him by beating and whipping him, tied him up using the *arbatachar* method and poured water on him multiple times.[2667] An OCRB Seleka Captain, a Colonel and a Seleka General were present and observed this mistreatment and did not intervene.[2668] The extent of this mistreatment rendered P-2519 unconscious and upon regaining consciousness, he was unable to walk and had to crawl slowly into his cell.[2669]

992. The OCRB Seleka members detained and mistreated P-2519 because they accused him of being a soldier, as [REDACTED], given that they used the term '*askar*' to refer to him as they beat him and the Seleka Captain said '[t]hen, you are the type of people that we

[2661] *See* below paras 1362-1363.
[2662] *See* below para. 1364.
[2663] *See* below paras 1364-1365.
[2664] *See* below para. 1364.
[2665] *See* below para. 1364.
[2666] *See* below paras 1366-1367.
[2667] *See* below para. 1368.
[2668] *See* below para. 1369.
[2669] *See* below para. 1371.

are looking for' when he established that he was [REDACTED].[2670]

993. The OCRB Seleka members detained P-2519 for a period of two weeks in two different cells.[2671] One cell had no windows and was small and overcrowded to such an extent that P-2519 and the 17 other detainees had to sit with open legs to fit between each other's legs.[2672] A [REDACTED] Seleka colonel beat P-2519 and his fellow detainees almost every night that he was detained at the OCRB.[2673] There were two instances in the first few days of his detention where Seleka prisoners from his cell were removed from the cell and never returned.[2674]

994. During P-2519's detention, the OCRB Seleka did not inform him of the basis for his detention or his rights as a detainee.[2675] An entry in the Register of the *Tribunal de Grande Instance* recorded his arrest 12 days *post facto*.[2676] He was not granted access to a lawyer during his detention at the OCRB, nor promptly produced before an authority to review the lawfulness of his detention, and his family was not informed that he was being detained there, although he managed to inform them through other means.[2677] P-2519 was allowed time outside of his cell at regular intervals daily and afforded family visits, but did not receive any medical care during his detention at the OCRB.[2678]

995. P-2519's family intervened unofficially to secure his release from the OCRB through the involvement of the police and the prosecutor.[2679] P-2519 was produced at [REDACTED], made to sign documents that were not read out to him, and subsequently transferred [REDACTED].[2680] P-2519 was released from [REDACTED] on medical grounds following the intervention of his family.[2681] P-2519 understood from his interactions with

[2670] *See* below paras 1367, 1370. The Chamber considers that P-2519's refusal to work with or for '[REDACTED]' within the Seleka may have initially motivated him to apprehend P-2519 and to bring him to the OCRB and, in that respect, a part of this motivation may have been personal. However, the circumstances in which P-2519 was received by the OCRB Seleka members, his questioning by them about his profession, and the use of the word '*askar*' leave no doubt that P-2519 was detained and mistreated at the OCRB because he was accused of being a soldier.
[2671] *See* below para. 1372.
[2672] *See* below para. 1372.
[2673] *See* below para. 1373.
[2674] *See* below para. 1373.
[2675] *See* below para. 1375.
[2676] *See* below paras 1378-1379.
[2677] *See* below paras 1375-1376.
[2678] *See* below para. 1374.
[2679] *See* below para. 1376.
[2680] *See* below para. 1376.
[2681] *See* below para. 1377.

the prosecutor that he was accused of having joined the Seleka but that there was no complainant against him.[2682] The prosecutor instituted criminal proceedings against P-2519 on the charges of [REDACTED].[2683] The *Tribunal de Grande Instance* in Bangui convicted P-2519 of [REDACTED].[2684] P-2519 was fined and sentenced to a term of imprisonment [REDACTED].[2685] P-2519 did not appear in court on the day of his conviction.[2686] P-2519 paid a fine but did not serve the [REDACTED] sentence.[2687]

996. P-2519 continues to suffer physical, psychological and material harm as a consequence of the time spent at the OCRB, including in the form of disability, recurrent pain, loss of strength, and paralysis, and he still suffers psychologically from the trauma that he experienced.[2688]

m) Incident M

997. At around 23:00 on 18 August 2013, four armed Seleka members arrested P-3064, P-3056 and P-3053 at a funeral of their relative in Bangui, together with an individual called [REDACTED] (the 'four men').[2689] P-3053 was a Christian of [REDACTED] ethnicity, who worked as [REDACTED] prior to the Seleka takeover of Bangui.[2690] P-3056 is a Christian of [REDACTED] ethnicity and he was unemployed at the time of the events.[2691] P-3064 is a [REDACTED] ethnicity and was unemployed at the time of the events.[2692]

998. Seleka members led by a chief made the four men get into a vehicle and handcuffed them.[2693] When one of the four men asked the Seleka members why they had been arrested and what they had done, the chief of these Seleka members slapped him with a pistol.[2694] After the four men were loaded onto the vehicle, one of the men asked again why they had been arrested and received no answer.[2695] The Seleka took the four men to

[2682] *See* below para. 1376.
[2683] *See* below paras 1376, 1378-1382.
[2684] *See* below paras 1378-1379.
[2685] *See* below para. 1378.
[2686] *See* below para. 1380.
[2687] *See* below para. 1380.
[2688] *See* below para. 1383.
[2689] *See* below paras 1386-1387.
[2690] *See* below para. 1385.
[2691] *See* below para. 1385.
[2692] *See* below para. 1385.
[2693] *See* below paras 1387-1388.
[2694] *See* below para. 1389.
[2695] *See* below para. 1389.

the OCRB Ngouciment.[2696] On the way, one of the Seleka members asked which one of them was [REDACTED].[2697]

999. After they arrived at the OCRB Ngouciment, Seleka members registered the four men and searched them.[2698] A Seleka member in a leadership role told them that they were suspected of having links to Bozizé.[2699] Seleka members placed the detainees in a cell for one night at the OCRB Ngouciment, which was so overcrowded that the persons detained there could not sit down.[2700]

1000. The next morning, on 19 August 2013, the Seleka members transferred the four men from the OCRB Ngouciment to the OCRB Central.[2701] Upon arrival at the OCRB, the Seleka took the four men inside the main OCRB building, where they met Mr Said, who ordered the Seleka to put the four men in the underground cell.[2702]

1001. The underground cell did not have enough space for them to stand up or lie down, it contained human faeces and insects.[2703] The detainees had to urinate in the cell.[2704] The underground cell was covered by a board and did not have sufficient light.[2705] The four men could not see what was going on outside but could hear voices, including those of other detainees at the OCRB crying and wailing.[2706]

1002. On the first night of their detention in the underground cell, despite their requests, the four men were not given food or water.[2707] The same night, a Seleka member ordered one of the four men (P-3056) out of the underground cell at night, drove him in a vehicle out of the OCRB, questioned him about Ngaïkosset and Bozizé and threatened to kill him with a gun, before putting him back into the underground cell with the remaining detainees.[2708] The detainee (P-3056) was trembling when he returned to the underground

[2696] *See* below paras 1388-1391.
[2697] *See* below para. 1389.
[2698] *See* below para. 1391.
[2699] *See* below para. 1390.
[2700] *See* below para. 1392.
[2701] *See* below para. 1394.
[2702] *See* below paras 1395-1398.
[2703] *See* below para. 1399.
[2704] *See* below para. 1399.
[2705] *See* below para. 1399.
[2706] *See* below para. 1399.
[2707] *See* below para. 1400.
[2708] *See* below paras 1402-1411.

cell and had [REDACTED].[2709]

1003. On the third day of their detention in the underground cell, someone from the prosecutor's office in Bangui came to the OCRB, met with the four men arrested at the funeral and asked them about the reason for their arrest and how long they had been at the OCRB.[2710] The next day, the four men were brought to the *Tribunal de Grande Instance* in Bangui where they met Prosecutor Tolmo, who asked whether they knew the reason for their arrest and the charges against them.[2711] One of the detainees responded that he was completely unaware of the reason, recounting that they were at the funeral of a family member when they were arrested and that no one had lodged a complaint against them.[2712]

1004. Subsequently, Prosecutor Tolmo informed them that three of them (P-3064, P-3056 and [REDACTED]) were to be released and prepared a document for them to sign.[2713] The families of [REDACTED] detainees had contacted individuals of influence in the Seleka regime to secure their release.[2714] The three men (P-3064, P-3056 and [REDACTED]) were released on [REDACTED] August 2013.[2715]

1005. One of the four men (P-3053), who was Christian and of [REDACTED] ethnicity, remained in the underground cell until the end of August 2013.[2716] On 30 August 2013 and just before a visit by the then Prime Minister, Nicolas Tiangaye, to the OCRB, one of the four men (P-3053) who remained in the underground cell was moved to a cell in the courtyard of the OCRB.[2717] This detainee escaped from the OCRB on 31 August 2013, along with one other detainee from the underground cell, with the assistance of some OCRB police officials.[2718]

1006. There is no indication on the record that any of the detainees were afforded legal representation during the time they spent at the OCRB.

[2709] *See* below paras 1402-1407.
[2710] *See* below para. 1413.
[2711] *See* below para. 1414.
[2712] *See* below para. 1414.
[2713] *See* below paras 1415-1416.
[2714] *See* below para. 1419.
[2715] *See* below paras 1416-1417.
[2716] *See* below paras 1417, 1425.
[2717] *See* below paras 1417, 1424.
[2718] *See* below para. 1425. *See also* below paras 1030-1031.

1007. The detainees suffered psychological harm as a result of their detention in the underground cell at the OCRB.[2719]

n) Incident N

1008. Between 6 May and 10 June 2013, a group of more than 10 OCRB Seleka members went to a residence in Kilometre 5, asked the family to present an individual whom they referred to as 'the baker',[2720] and transported him to the OCRB.[2721] The operation and arrest at the residence were carried out at the request of General Rakiss.[2722] Mr Said and members of the OCRB Seleka were also present.[2723]

1009. Upon arriving at the OCRB, an OCRB Seleka member registered the 'baker'.[2724] Members of the OCRB Seleka interrogated the 'baker' while he was held on the ground and severely beaten with ropes, whips, and military belts all over his body.[2725] The OCRB Seleka members tied the 'baker's' hands and ankles behind his back using the same piece of rope, using the *arbatachar* method.[2726] Mr Said, General Rakiss, and Nouradine Adam were present during the beating.[2727] The 'baker' cried out while being beaten.[2728] During the beating, members of the OCRB Seleka mentioned François Bozizé's name and asked the 'baker' where they could find Bozizé's inner circle.[2729] The 'baker' did not answer the questions that were put to him.[2730]

1010. After his interrogation and beating, the OCRB Seleka locked the 'baker' in the underground cell in the OCRB main building.[2731] The 'baker' appeared to a witness to be in a 'state of suffering'.[2732] An OCRB Seleka member gave the 'baker' medication

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[2719] *See* below paras 1426-1428.
[2720] *See* below para. 1430. The Confirmation of Charges Decision states that the person was a Christian baker. The Chamber considers that the indication by [REDACTED] that the Seleka members referred to the victim as the 'baker' is insufficient to establish that the victim was in fact a baker. There is no evidence of the religious affiliation of the victim. *See* Confirmation of Charges Decision, ICC-01/14-01/21-218-Red, p. 56, para. 29(n), Confirmation of Charges Decision, ICC-01/14-01/21-218-Conf, p. 58, para. 29(n).
[2721] *See* below paras 1430-1433.
[2722] *See* below paras 1430-1431.
[2723] *See* below para. 1431.
[2724] *See* below para. 1433.
[2725] *See* below para. 1433.
[2726] *See* below para. 1433.
[2727] *See* below paras 1436-1437.
[2728] *See* below para. 1433.
[2729] *See* below para. 1435.
[2730] *See* below para. 1435.
[2731] *See* below para. 1438.
[2732] *See* below para. 1440.

that one of his family members brought for him.[2733] The 'baker' was detained at the OCRB for at least one day, after which he was removed from the cell.[2734]

o) Incident O

1011. On or about 21 August 2013, following the Seleka's operation in Boy Rabe, armed Seleka members, led by Bachar, stopped P-0547, a [REDACTED] of [REDACTED] ethnicity, in the street as he was attempting to leave Boy Rabe.[2735] The Seleka members asked P-0547 for his identification documents and questioned him whether he was a soldier or part of the 'military [REDACTED]', which P-0547 denied.[2736] The Seleka members directed P-0547 to get into one of their vehicles and took him to the OCRB.[2737]

1012. Following P-0547's arrival at the OCRB, Bachar slapped P-0547 across the face violently and threatened him, saying, '[y]ou, Bozizé's mercenaries, we are going to kill you one by one, get rid of you'.[2738] Multiple OCRB Seleka members beat P-0547 all over his body with rifle butts.[2739] [REDACTED] intervened, querying what was going on, and the OCRB Seleka members stopped beating P-0547.[2740]

1013. P-0547 was permitted to answer two phone calls from his relatives and he informed them that he was at the OCRB.[2741] P-0547 was taken to the OCRB Seleka 'post' and the 'head of the station' registered P-0547's information, including his name.[2742] When asked about his neighbourhood, P-0547 told the man that he lived in [REDACTED], because he believed it was dangerous to say one lived in Boy Rabe.[2743] The 'head of the station' asked P-0547 whether he knew the reason he had been taken to the OCRB, and 'they' mentioned the names of two people.[2744] P-0547 responded that he did not know these people and 'did not recognise these reasons which [had] been put forward against [him]'.[2745]

[2733] *See* below para. 1439.
[2734] *See* below para. 1440.
[2735] *See* below paras 1442-1443.
[2736] *See* below para. 1443.
[2737] *See* below para. 1443.
[2738] *See* below para. 1444.
[2739] *See* below para. 1445.
[2740] *See* below para. 1445.
[2741] *See* below para. 1446.
[2742] *See* below para. 1446.
[2743] *See* below para. 1446.
[2744] *See* below para. 1447.
[2745] *See* below para. 1447.

1014. The OCRB Seleka detained P-0547 in cell 'G3', which contained many detainees.[2746] All the detainees inside the cell were on the ground, including wounded people who were lying down and could barely move.[2747] There was a bucket for defecation and plastic bottles for urination.[2748] Amongst the detainees was a young soldier and a man whose entire body was covered in blood.[2749]

1015. While detained in cell 'G3', P-0547 witnessed two women being brought to the OCRB in a vehicle.[2750] The women were screaming and he heard one say words to the effect that '[w]here you come from that's how things are, you are violent towards women, that's how you are'.[2751] P-0547 heard a woman cry out, '[n]o, I don't want to. I don't want to do that. I can't.'[2752] P-0547 heard another woman who was being beaten, crying out even louder, after which 'there was no sound, no scream'.[2753]

1016. On or about 22 August 2013, P-0547 and other detainees were permitted to leave the cell for 10 to 15 minutes to urinate, empty their waste, or consume food that their relatives had brought them.[2754] P-0547's [REDACTED] visited him and brought him coffee, bread, cigarettes and money.[2755] That afternoon, Nouradine Adam visited the OCRB and the OCRB Seleka members stood to attention and greeted him.[2756] Nouradine Adam spoke to people and left in his vehicle shortly thereafter.[2757]

1017. In the afternoon of 22 August 2013, OCRB Seleka members removed P-0547 from the cell and took him to the location where he was registered the prior evening.[2758] A man P-0547 identified as the 'other head of the station', marked P-0547's name [REDACTED].[2759]

1018. The OCRB Seleka took P-0547 to a hole in the ground covered by planks, next to

[2746] *See* below para. 1448.
[2747] *See* below para. 1448.
[2748] *See* below para. 1448.
[2749] *See* below para. 1449.
[2750] *See* below para. 1450.
[2751] *See* below para. 1450.
[2752] *See* below para. 1450.
[2753] *See* below para. 1450.
[2754] *See* below para. 1451.
[2755] *See* below para. 1451.
[2756] *See* below para. 1454.
[2757] *See* below para. 1454.
[2758] *See* below para. 1455.
[2759] *See* below para. 1455.

Mr Said's office and instructed him to get into the underground cell.[2760] The stench in the underground cell was 'unbearable'.[2761] When P-0547 entered the underground cell, there were two other people in the cell: P-3053 and another detainee who was dead.[2762] The latter was removed from the cell on or about 23 August 2013.[2763] Other persons detained in the underground cell at various times during P-0547's detention included a short boy from Burundi and at least one other detainee named [REDACTED].[2764] A Koranic school teacher named [REDACTED] slept in the room above the underground cell.[2765]

1019. At around 17:30 to 18:00 on 22 August 2013, OCRB Seleka members told P-0547 to get out of the underground cell and to remove his shirt and trousers.[2766] The OCRB Seleka members led P-0547 outside and tied him using the *arbatachar* method, drawing his elbows in and pulling his right leg behind him until it touched his elbows.[2767] The OCRB Seleka members kicked P-0547, hung him and beat him using various instruments, including a stick and a rope.[2768] At one point, the 'torturer' cocked his Kalashnikov and pointed it at P-0547's head.[2769] P-0547 said that he had not done anything to deserve death and begged the man not to shoot, saying that he had young children.[2770] The 'torturer' said that since P-0547 did not want to reveal the names of his accomplices, they would 'show him' and ordered the OCRB Seleka members to beat him.[2771] The members of the OCRB Seleka hung P-0547 close to the barbed wire on the wall separating the OCRB from the MOOV premises and encircled him, hitting him with rifle butts and pushing him against the wall.[2772] One OCRB Seleka member took out a knife to slit P-0547's throat, but his 'torturer' pushed the man away and said he would kill P-0547 slowly.[2773] Amongst the OCRB Seleka members involved in the mistreatment of P-0547 were [REDACTED], whom P-0547 described as '[REDACTED]', and

[2760] *See* below para. 1456.
[2761] *See* below para. 1456.
[2762] *See* below paras 1455-1458.
[2763] *See* below para. 1458.
[2764] *See* below para. 1459.
[2765] *See* below para. 1459.
[2766] *See* below paras 1460, 1465.
[2767] *See* below paras 1460, 1465.
[2768] *See* below paras 1460, 1465.
[2769] *See* below para. 1461.
[2770] *See* below para. 1461.
[2771] *See* below para. 1461.
[2772] *See* below para. 1462.
[2773] *See* below para. 1462.

[REDACTED].[2774]

1020. The OCRB Seleka beat P-0547 from approximately 18:00 to 21:00, at which time [REDACTED] asked for P-0547 to be untied.[2775] [REDACTED] ordered that P-0547 be untied and members of the OCRB Seleka dragged him back to the underground cell and kicked him into it.[2776]

1021. As a result of the mistreatment, P-0547 felt like he was dying.[2777] His hands were almost paralysed, he could barely move, he had wounds all over his body, which subsequently became infected, and he felt as if water was coming out of his entire body.[2778] Another detainee helped P-0547 drink water and remove his trousers and undergarments every time he needed to urinate.[2779]

1022. At some stage, members of the OCRB Seleka undressed P-0547, massaged his injured limbs with his undergarments soaked in hot water and gave him clean clothing and anti-inflammatory medicine.[2780]

1023. P-0547 and his fellow detainees were sometimes permitted to leave the underground cell.[2781] P-0547's family members visited him in the OCRB compound and brought him medicine, and once [REDACTED].[2782] On one such occasion, Mr Said witnessed [REDACTED] visiting P-0547 at the OCRB and, upon enquiring what they were doing, was informed that [REDACTED] P-0547.[2783] On another, Mr Said saw P-0547 and his fellow detainees outside the underground cell, questioned who had let them out and ordered that they be returned to the cell.[2784]

1024. At some stage, P-0547 was removed from the underground cell and was brought before OCRB Seleka members, including [REDACTED]. [REDACTED] entered the room and gave one of the OCRB Seleka members P-0547's telephone, which [REDACTED] had

[2774] *See* below para. 1463.
[2775] *See* below paras 1462-1463.
[2776] *See* below paras 1463-1464.
[2777] *See* below para. 1462.
[2778] *See* below paras 1465-1466.
[2779] *See* below para. 1466.
[2780] *See* below para. 1467.
[2781] *See* below paras 1468, 1470.
[2782] *See* below paras 1468-1469.
[2783] *See* below para. 1469.
[2784] *See* below para. 1470.

previously confiscated.[2785] P-0547 was asked who had done 'all this' to him and [REDACTED] admitted that he had done it, but noted that it was on the instruction of someone else.[2786] The OCRB Seleka accused P-0547 of calling *Radio France International* often and questioned him about his links to political individuals, including [REDACTED], who was linked to François Bozizé, and [REDACTED]. P-0547 told them that the [REDACTED] was [REDACTED], he knew [REDACTED] and it was true that he often called *Radio France International*.[2787] The members of the OCRB Seleka played an audio of P-0547 speaking to [REDACTED] on *Radio France International*, whom he referred to as [REDACTED].[2788] After listening to the audio, the OCRB Seleka questioned P-0547 as to why he did not speak positively about the OCRB Seleka and accused him of being an intellectual.[2789] Following internal discussions, [REDACTED] told P-0547 that the authorities wanted to see him.[2790]

1025. One day, [REDACTED] told P-0547 that they were going to bring him before 'the head'.[2791] That day, at or around [REDACTED], accompanied by five other people, transported P-0547 in a vehicle to Camp de Roux.[2792] There were many OCRB Seleka members present at Camp de Roux and people were kneeling in a row in the courtyard in front of Michel Djotodia.[2793] Due to his injuries, P-0547 could not kneel and was assisted in walking.[2794] Michel Djotodia questioned a young boy whose hands were tied behind his back about his ethnicity and when the boy indicated that he was a [REDACTED] from [REDACTED], Michel Djotodia said, '[s]o you're the one with Bozizé […]' and hit him with a *massette*.[2795] OCRB Seleka members then placed the boy in a large sack and beat him with rifle butts.[2796]

1026. On the way back to the OCRB, [REDACTED] asked P-0547 [REDACTED].[2797]

1027. At some point during his detention, P-0547 was taken to Benjamin Mallo's office, where

[2785] *See* below paras 1446, 1472.
[2786] *See* below para. 1472.
[2787] *See* below para. 1472.
[2788] *See* below para. 1472.
[2789] *See* below para. 1472.
[2790] *See* below para. 1472.
[2791] *See* below para. 1474.
[2792] *See* below para. 1474.
[2793] *See* below para. 1474.
[2794] *See* below para. 1474.
[2795] *See* below para. 1474.
[2796] *See* below para. 1474.
[2797] *See* below para. 1475.

[REDACTED] French soldiers photographed him.[2798] P-0547 witnessed Mr Said talking to [REDACTED] in the OCRB compound while a man was being beaten and doused with water until he defecated on himself, following which [REDACTED] ordered the OCRB Seleka members to continue beating the man.[2799]

1028. On or about 29 August 2013, in the evening, unidentified people removed P-0547 from his cell, placed a black bag over his head and put him in a vehicle.[2800] He was driven for a period of time before being removed from the vehicle and placed in a container, where another detainee named '[REDACTED]' was held.[2801] After spending approximately 45 minutes to an hour in the container, he was placed in a vehicle and returned to the OCRB.[2802]

1029. On 30 August 2013, the day that the OCRB closing ceremony was held, P-0547 and his co-detainees were moved from the underground cell to a cell in the OCRB courtyard.[2803] [REDACTED] instructed that P-0547 be freed.[2804]

1030. On or about 31 August 2013, in the early hours, a policeman opened the cell in which P-0547 and P-3053 were detained.[2805] P-0547 and P-3053 escaped from the OCRB in a [REDACTED].[2806]

1031. While P-0547 was interrogated about his affiliations with various individuals,[2807] there is no indication on the record that he was ever formally informed of any charges against him or afforded legal representation during his period of detention at the OCRB.

1032. P-0547 suffered severe physical, psychological and material harm as a consequence of the time spent at the OCRB.[2808] As a result of P-0547's mistreatment at the OCRB, he had wounds and scars on his body and his hands were almost paralysed [REDACTED] following his escape, for which he had to receive treatment and [REDACTED].[2809] P-

[2798] *See* below paras 1476-1478, 1480.
[2799] *See* below paras 1479-1480.
[2800] *See* below para. 1481.
[2801] *See* below para. 1481.
[2802] *See* below para. 1481.
[2803] *See* below paras 1482-1485.
[2804] *See* below paras 1483-1484.
[2805] *See* below paras 1484-1485.
[2806] *See* below paras 1484-1485.
[2807] *See* below paras 1447, 1472-1473.
[2808] *See* below paras 1486-1488.
[2809] *See* below para. 1486.

0547 continues to suffer from headaches, insomnia, hypertension and gastric problems.[2810]

p) Incident P

1033. In respect of Incident P, the Chamber has found the evidence of P-2179, the alleged victim of this incident, to lack credibility.[2811] There is no other evidence relevant to P-2179's alleged detention and mistreatment at the OCRB. Accordingly, the Chamber does not enter factual findings concerning Incident P.

q) Incident Q

i. Arrest and transfer to the OCRB

1034. Shortly after [REDACTED] August 2013, in the evening, armed Seleka members carried out an operation ordered by General [REDACTED][2812] during which armed Seleka members arrived in vehicles, surrounded a public place [REDACTED] in the 4th arrondissement in Bangui.[2813] Seleka members entered the premises looking for FACA members.[2814] They approached two persons, namely, P-2400, who is a Christian man of [REDACTED] ethnicity, and P-2241, who is a Christian woman of [REDACTED] ethnicity, [REDACTED].[2815] The Seleka ordered P-2241 and P-2400 to leave.[2816] P-2400 and P-2241 were the only persons who were arrested at that location.[2817]

1035. The Seleka members never informed P-2241 and P-2400 of the reasons for their arrest.[2818] When P-2400 asked what he had done, Seleka members hit him.[2819] Seleka members accused P-2241 of being P-2400's wife and accomplice, demanding that she confirm that P-2400 was a FACA member.[2820] P-2241 did not reply to their accusations.[2821] A Seleka commander who was part of the operation told the owner [REDACTED] that they were conducting an investigation and looking for FACA

[2810] *See* below para. 1487.
[2811] *See* above paras 285-297.
[2812] *See* below paras 1503, 1519-1523, 1527, 1550.
[2813] *See* below paras 1491-1499
[2814] *See* below paras 1498-1499, 1505-1506.
[2815] *See* below para. 1490.
[2816] *See* below para. 1499.
[2817] *See* below paras 1491-1499.
[2818] *See* below para. 1504.
[2819] *See* below para. 1501.
[2820] *See* below para. 1506.
[2821] *See* below para. 1506.

members.[2822] The owner [REDACTED] informed the Seleka members that P-2400 had never been in the military.[2823]

1036. Seleka members took P-2241 and P-2400's phones and money, forcing them out and onto the street.[2824] When P-2241 and P-2400 were taken outside, Seleka members made them sit in one of their vehicles and took them to Camp de Roux.[2825] During the drive to Camp de Roux, P-2400 heard one of the Seleka members say [REDACTED], 'General, we have accomplished our mission'.[2826] One of the Seleka members sitting next to P-2400 told him that they were taking them to Camp de Roux because P-2400 did not want to tell them the truth and warned him that he would kill him there.[2827]

1037. Upon arrival at Camp de Roux, the Seleka members brought P-2400 and P-2241 to sit in a big open square space surrounded by many Seleka members and in front of [REDACTED] Seleka commanders.[2828] These Seleka commanders asked P-2400 for his military card, which P-2400 denied having as he was not in the military.[2829] Upon confirming P-2400's family name, the Seleka commander noted that this was a [REDACTED] family name and accused P-2400 of 'being a relative and an intelligence agent of Bozize'.[2830] Once the other Seleka members guarding them heard this, they started challenging P-2400 on those allegations.[2831]

1038. At some point during this interrogation, [REDACTED] arrived at the scene and asked P-2400 if he was in the military.[2832] P-2400 responded that he was not and that the Seleka had arrested him for no reason.[2833] [REDACTED] also questioned P-2241 about what had happened and she explained that she did not know why they had been arrested.[2834] [REDACTED] asked the Seleka commanders to free them, but they denied the request

[2822] *See* below para. 1505.
[2823] *See* below para. 1505.
[2824] *See* below para. 1502.
[2825] *See* below paras 1503, 1507-1509.
[2826] *See* below para. 1508.
[2827] *See* below para. 1508.
[2828] *See* below para. 1509.
[2829] *See* below para. 1511.
[2830] *See* below para. 1511.
[2831] *See* below para. 1511.
[2832] *See* below paras 1512-1514.
[2833] *See* below paras 1512, 1514.
[2834] *See* below paras 1513-1514.

and he left.[2835]

1039. One of the Seleka members then threatened to tie P-2400 up if he did not tell the truth.[2836] Two Seleka members took him to a building nearby, tied him using the *arbatachar* manner, stripped him naked and put a rope around his neck.[2837] One of them cut him with a knife on his forehead, and pushed a knife into his lower abdomen and twisted it.[2838] [REDACTED].[2839] One Seleka member hit him on the head with a stick.[2840] Throughout this mistreatment, the Seleka threatened to kill him and demanded multiple times that P-2400 admit that he was in the military, an allegation that he denied.[2841] [REDACTED].[2842] One of the Seleka members whipped him on his head as a result of which he started bleeding heavily.[2843] Seleka members eventually brought him back to the square in Camp de Roux and other detainees could see that P-2400 was bleeding heavily from an injury to his head and that his clothes were covered in blood.[2844]

1040. P-2239, a Christian of [REDACTED] ethnicity and a [REDACTED] at the time of the events, was sitting in a vehicle parked at Camp de Roux, learnt that Seleka members had arrested P-2241, [REDACTED], and brought her to Camp de Roux.[2845] When P-2239 went [REDACTED], Seleka General [REDACTED] confronted him, searched him, seized his phone and ordered him to sit on the ground next to P-2241.[2846] General [REDACTED] questioned P-2239, *inter alia*, about who he was [REDACTED].[2847] P-2239 explained to him that he was [REDACTED].[2848] A Seleka member carrying P-2239's confiscated phone saw [REDACTED].[2849] Seleka members accused P-2239 of making calls to 'Bozizé's men', who were on the other side of the River Oubangui in the Democratic Republic of Congo, an allegation that P-2239 denied.[2850] One of the Seleka members whipped him on the back with a rope, General [REDACTED] took out his

[2835] *See* below paras 1513-1514.
[2836] *See* below para. 1515.
[2837] *See* below paras 1515-1516.
[2838] *See* below para. 1516.
[2839] *See* below para. 1516.
[2840] *See* below para. 1516.
[2841] *See* below para. 1517.
[2842] *See* below para. 1518.
[2843] *See* below para. 1518.
[2844] *See* below paras 1518, 1524.
[2845] *See* below paras 1491, 1519.
[2846] *See* below para. 1519.
[2847] *See* below para. 1520.
[2848] *See* below para. 1520.
[2849] *See* below para. 1521.
[2850] *See* below para. 1521.

pistol and told P-2239 to speak the truth, demanding to know 'about Bozizé's people across the river and their activities'.[2851] [REDACTED] arrived at the scene and, upon inquiring what happened, informed [REDACTED] that he would inform Prosecutor Tolmo about his arrest while General [REDACTED] carried out his own investigations.[2852] P-2239 also asked [REDACTED] to inform his (P-2239's) mother about his arrest.[2853]

1041. Seleka members also brought P-2239's friend [REDACTED] to the square and ordered him to sit with P-2239, P-2241 and P-2400.[2854] A Seleka member accused [REDACTED] of being a traitor [REDACTED].[2855]

1042. [REDACTED] came out of the presidential residence, said that all four of them (P-2241, P-2400, P-2239 and [REDACTED]) should be taken to the OCRB following the President's instructions, and brought them from Camp de Roux to the OCRB in a vehicle, [REDACTED].[2856] [REDACTED] spoke to a Seleka member and transferred custody of the detainees to the OCRB Seleka.[2857]

1043. The Seleka members at the OCRB brought the four persons to a Seleka member, sitting at a table under a veranda attached to one of the two buildings inside the OCRB courtyard, who asked them about their identities and registered them.[2858] The OCRB Seleka member, who registered them at the OCRB, did not ask for the contact details of their family members.[2859]

1044. When P-2400 gave information concerning his identity, an OCRB Seleka member hit P-2400 hard and he fell on the ground, after which a different OCRB Seleka member hit him in his neck and threatened to kill him with a knife.[2860] An OCRB Seleka member called Tahir was present when the four persons were registered at the OCRB and Tahir questioned P-2400, threatened him, and ordered that P-2400 was to await Mr Said's

[2851] *See* below para. 1521.
[2852] *See* below para. 1523.
[2853] *See* below para. 1523.
[2854] *See* below para. 1525.
[2855] *See* below para. 1527.
[2856] *See* below paras 1526, 1528.
[2857] *See* below paras 1529-1530.
[2858] *See* below para. 1530.
[2859] *See* below para. 1546.
[2860] *See* below para. 1531.

instructions.[2861] Mr Said was not physically present when the Seleka took the four detainees (P-2241, P-2400, P-2239 and [REDACTED]) to the OCRB.[2862] Mr Said arrived at the OCRB approximately one hour after the OCRB Seleka had registered the four detainees.[2863] Mr Said subsequently instructed the OCRB Seleka to detain P-2400 in the underground cell.[2864]

1045. The OCRB Seleka did not provide the four persons (P-2241, P-2400, P-2239 and [REDACTED]) with any lawful basis for arresting or detaining them at the OCRB.[2865]

1046. The Seleka members separated the detainees and brought P-2241 and P-2400 inside the main OCRB office, and put P-2239 and [REDACTED] in one of the cells of the two buildings in the courtyard of the OCRB.[2866]

ii. P-2400's detention at the OCRB

1047. The Seleka member who registered the four persons directed other Seleka members to bring P-2400 to the underground cell on Mr Said's instructions.[2867] Seleka members demanded P-2400 to get into the underground cell and threatened to kill him if he refused.[2868]

1048. Because P-2400 continued to bleed from his head injury and his clothes were soaked in blood, he felt chilly.[2869] The underground cell was dirty, the floor was covered in waste and it smelled of faeces and urine.[2870] There were other male detainees in the underground cell with P-2400 and there was not enough space for them to lie down and sleep.[2871] Some of the detainees would sleep while sitting with their backs against the wall.[2872]

1049. P-2337, [REDACTED], learnt where P-2400 was detained when he went looking for him

[2861] *See* below para. 1532.
[2862] *See* below paras 1533-1535.
[2863] *See* below paras 1533-1535.
[2864] *See* below para. 1535.
[2865] *See* below para. 1536.
[2866] *See* below paras 1537-1538, 1547, 1551.
[2867] *See* below paras 1533, 1535.
[2868] *See* below para. 1538.
[2869] *See* below para. 1539.
[2870] *See* below para. 1539.
[2871] *See* below para. 1540.
[2872] *See* below para. 1540.

at the OCRB.[2873] P-2337 met P-2400 at the OCRB regularly and brought him food and medication.[2874] P-2337 also gave P-2400 money to bribe the OCRB Seleka members.[2875] [REDACTED]would allow P-2400 out of the underground cell for these visits, which took place in Mr Said's absence and would not last more than five minutes as [REDACTED] was afraid that Mr Said might return.[2876] P-2400 remained in the underground cell for five days.[2877]

1050. After [REDACTED], P-2400 was allowed to shower and was subsequently detained in a cell in the OCRB courtyard, as the Seleka continued to investigate whether he was in the military.[2878] The cell where P-2400 was detained was overcrowded to such an extent that the detainees could not sleep on the floor and had to sit against the wall while sleeping.[2879] P-2400 spent one week in this cell.[2880] P-2400 saw other detainees being beaten, tied up, and have water poured on them.[2881] He stated that sometimes, from inside his cell, he would hear the screams of detainees being beaten outside.[2882]

1051. Throughout P-2400's detention at the OCRB, including the five days in the underground cell, he was never interviewed by any authority.[2883] P-2400 did not receive treatment for his injuries from any Seleka member at the OCRB, despite the fact that he was still bleeding when he arrived there, and he had to wrap his shirt around the wound on his head.[2884]

1052. Mr Said released P-2400 after P-2337 paid a ransom, telling him that there were no standing allegations against him.[2885] P-2400 asked Mr Said to issue him a release document proving his release and the reason for his arrest, and Mr Said did so.[2886]

1053. P-2400 suffered physical, psychological and material harm as a consequence of the time

[2873] *See* below para. 1541.
[2874] *See* below paras 1542, 1546.
[2875] *See* below para. 1542.
[2876] *See* below para. 1542.
[2877] *See* below para. 1543.
[2878] *See* below para. 1544.
[2879] *See* below para. 1545.
[2880] *See* below para. 1545.
[2881] *See* below para. 1545.
[2882] *See* below para. 1545.
[2883] *See* below para. 1546.
[2884] *See* below para. 1546.
[2885] *See* below para. 1560.
[2886] *See* below para. 1560.

spent at the OCRB.[2887]

iii. P-2239 and another person's detention at the OCRB

1054. On the same night, the Seleka members at the OCRB told P-2239 and [REDACTED], who remained in the OCRB courtyard as P-2241 and P-2400 were brought to the main OCRB building, to take off their clothes except for their trousers and put them in one of the cells of the cellblock in the rear of the OCRB compound.[2888]

1055. Their cell measured about two to three metres and there were about 15 detainees inside.[2889] They had to relieve themselves in a plastic bucket shared between the detainees and every once in a while, P-2239 would be allowed to leave the cell to empty the bucket in the toilets outside.[2890] Sometimes, they were allowed to spend time in the courtyard during the day and to shower.[2891] Those detained in the OCRB courtyard cells were allowed to have family visits, twice a day, for about one hour and to have two meals provided by the family.[2892] P-2239's family members visited him daily.[2893]

1056. At some point during P-2239's detention, General [REDACTED] questioned P-2239 at the OCRB about his complicity in planning a coup d'état against Michel Djotodia.[2894] General [REDACTED] said that he knew that people from Boy Rabe were hiding weapons and accused P-2239 of hiding weapons [REDACTED], which P-2239 denied.[2895]

1057. P-2239's family paid 500,000 CFA to have him released.[2896] A Seleka Colonel at the OCRB told his family that the sum they had paid was insufficient because his case was sensitive and complicated, and therefore his family decided to increase the amount for his release.[2897]

1058. P-2239 suffered material and psychological harm as a consequence of the time spent at

[2887] *See* below para. 1566.
[2888] *See* below para. 1547.
[2889] *See* below para. 1548.
[2890] *See* below para. 1548.
[2891] *See* below para. 1548.
[2892] *See* below para. 1549.
[2893] *See* below para. 1549.
[2894] *See* below para. 1550.
[2895] *See* below para. 1550.
[2896] *See* below paras 1560-1561.
[2897] *See* below para. 1561.

the OCRB.[2898]

iv. P-2241's detention at the OCRB

1059. On the night that armed Seleka members brought the four detainees (P-2241, P-2400, P-2239 and [REDACTED]) to the OCRB, the Seleka member who registered the detainees ordered another OCRB Seleka member to take P-2241 into one of the offices in the main OCRB building, [REDACTED].[2899] She screamed and two Seleka members intervened and took her to another room, [REDACTED].[2900] Shortly thereafter, the OCRB Seleka member [REDACTED] entered this room, grabbed her and tried to drag her out.[2901] When P-2241 screamed, a Seleka commander intervened and stopped the Seleka member from harassing her.[2902] The OCRB Seleka member [REDACTED], later also followed her to the [REDACTED] to get access to her, but P-2241 managed to escape from him.[2903] After this incident, P-2241 showered together with the other female detainees to avoid the OCRB Seleka member [REDACTED] from harassing her.[2904]

1060. P-2241 slept on the floor of the [REDACTED] for the remainder of her detention, [REDACTED] remaining there alone for four nights.[2905] On the second day of her detention, P-2241 met Mr Said, who told her [REDACTED] to stay in [REDACTED] during the day.[2906] From this [REDACTED], P-2241 could observe Seleka members bringing detainees in and out of the cells, beating them and tying them up.[2907] From this window, P-2241 could also see Mr Said in the OCRB courtyard during the day.[2908]

1061. P-2241's [REDACTED] visited her at the OCRB regularly and brought her food and medications.[2909] P-2241 was able to shower and go to the toilet at the OCRB. P-2241 and [REDACTED] were allowed to [REDACTED] each day, from 18:00 to 20:00, in front of the OCRB building, near the front entrance gate, from where they could see Seleka

[2898] *See* below para. 1567.
[2899] *See* below para. 1551.
[2900] *See* below para. 1552.
[2901] *See* below para. 1552.
[2902] *See* below para. 1552.
[2903] *See* below para. 1552.
[2904] *See* below para. 1552.
[2905] *See* below para. 1553.
[2906] *See* below para. 1553.
[2907] *See* below para. 1553.
[2908] *See* below para. 1553.
[2909] *See* below para. 1554.

members bringing detainees to the OCRB as of 18:00.[2910] P-2241 saw Seleka members bringing three or four detainees at a time in a vehicle and beating them immediately upon arrival.[2911] On one occasion, P-2241 observed Seleka members beat a person detained at the OCRB until his arms were hanging next to his body as if they were paralysed.[2912]

1062. P-2241 was questioned on three occasions, first by a male police officer, second by a female police officer and then by Mr Said, who questioned her when she had already been detained at the OCRB for a week.[2913] Mr Said told her that he was supposed to interview her but was awaiting a decision from [REDACTED] about whether or not she was to be released and told P-2241 that he would take her to the prosecutor to be interviewed.[2914]

1063. Two days later, Mr Said took P-2241 and other male detainees to the prosecutor's office, where the prosecutor interviewed P-2241 and the others in Mr Said's presence.[2915] The prosecutor asked her why she had been arrested and she explained the circumstances of her arrest.[2916] The prosecutor did not inform her of the reason for her arrest and detention, although she asked the prosecutor for this information several times.[2917] The prosecutor told her that [REDACTED] had been informed of her case and that the decision was his to make, and that she would be taken back to the OCRB pending this decision.[2918] The prosecutor did not ask her if she needed a lawyer.[2919] P-2241 did not have to sign any document and did not receive any document related to her arrest or detention.[2920] Mr Said subsequently brought her back to the OCRB.[2921]

1064. P-2241's [REDACTED] paid Mr Said 500,000 CFA for her release but P-2241 was not released.[2922] P-2241's [REDACTED] paid another individual 250,000 CFA to broker her

[2910] *See* below paras 1554-1555.
[2911] *See* below para. 1555.
[2912] *See* below para. 1555.
[2913] *See* below para. 1556.
[2914] *See* below para. 1556.
[2915] *See* below para. 1557.
[2916] *See* below para. 1557.
[2917] *See* below para. 1557.
[2918] *See* below para. 1557.
[2919] *See* below para. 1557.
[2920] *See* below para. 1557.
[2921] *See* below para. 1557.
[2922] *See* below para. 1562.

release.[2923] P-2241 fell seriously ill during her detention at the OCRB. [REDACTED].[2924] [REDACTED].[2925]

1065. P-2241 suffered psychological harm as a consequence of the time spent at the OCRB and her [REDACTED] suffered psychological and material harm as a result of P-2241's detention at the OCRB.[2926]

1066. The four detainees (P-2241, P-2400, P-2239 and [REDACTED]) were released at the end of August 2013.[2927]

v. Mistreatment of other detainees

1067. When P-2239 was detained at the OCRB, there was an older man who was detained there who had been tied in the 'arbatacha' manner and beaten with a wooden bat.[2928] The man could hardly move or lift his arms, which were hanging next to his body.[2929] The Chamber could not determine on the basis of the evidence in which cell the older man was detained or how long he was detained.[2930] The Chamber could not determine that this mistreatment took place at the OCRB or at the hands of the OCRB Seleka.[2931]

1068. On one occasion during the time that P-2400 was detained, Mr Said ordered the OCRB Seleka members to tie up and beat a newly arrived detainee.[2932] The OCRB Seleka followed Mr Said's orders, tied the detainee up and beat him with sticks for 15 to 20 minutes while he begged for mercy.[2933]

r) Incident R

1069. During the period relevant to the charges, various other men, including a Christian man called [REDACTED], and persons named [REDACTED], [REDACTED] and [REDACTED] were detained by the Seleka in the underground cell of the OCRB.[2934]

[2923] *See* below para. 1562.
[2924] *See* below para. 1562.
[2925] *See* below para. 1562.
[2926] *See* below para. 1565.
[2927] *See* below paras 1493, 1560-1564.
[2928] *See* below para. 1558.
[2929] *See* below para. 1558.
[2930] *See* below para. 1558.
[2931] *See* below para. 1558.
[2932] *See* below para. 1559.
[2933] *See* below para. 1559.
[2934] *See* below paras 1569-1580.

1070. In respect of [REDACTED], sometime between Mr Said's arrival at the OCRB and 10 June 2013 (before Mr Said was detained at the SRI), the Seleka arrested [REDACTED], a Christian man, for his alleged support of the 'Anti-Balaka'.[2935] The Seleka brought him to the OCRB and detained him in the underground cell for an unknown period of time.[2936] In order to obtain information on the activities of the 'Anti-Balaka', the OCRB Seleka tied [REDACTED]'s hands and feet behind his back using the *arbatachar* method and whipped him several times in the rear courtyard of the OCRB.[2937]

1071. In respect of [REDACTED], sometime between Mr Said's arrival at the OCRB and 10 June 2013 (before Mr Said was detained at the SRI), the Seleka detained [REDACTED] in the underground cell at the OCRB for an unknown period of time.[2938] At some point, the OCRB Seleka removed [REDACTED], who had his feet bound together, from the basement cell and beat him to obtain a confession on the movements and organisation of the 'Anti-Balaka'.[2939] After [REDACTED] was untied, the OCRB Seleka put him in a different cell but he remained under the authority of [REDACTED]. On one occasion, [REDACTED].[2940] [REDACTED].[2941] At around 23:00 that night, Noiro along with other members of the OCRB Seleka tied [REDACTED] using the *arbatachar* method and beat him with a whip in the OCRB compound in the presence of several Seleka members under the command of Mr Said.[2942] [REDACTED] spent that night bound *arbatachar* and when he was untied in the morning, he was in a 'very weakened' state and had to be carried back to a cell.[2943] [REDACTED] of the OCRB later released [REDACTED] because they knew each other.[2944]

1072. In respect of [REDACTED] and [REDACTED], the Seleka detained these persons in the underground cell for an unknown period of time around June 2013.[2945]

1073. For the reasons set out below, the Chamber does not enter any factual findings in respect

[2935] *See* below paras 1569, 1576.
[2936] *See* below paras 1570, 1576.
[2937] *See* below para. 1571.
[2938] *See* below paras 1573, 1576.
[2939] *See* below para. 1573.
[2940] *See* below para. 1575.
[2941] *See* below para. 1575.
[2942] *See* below para. 1575.
[2943] *See* below para. 1575.
[2944] *See* below para. 1575.
[2945] *See* below paras 1577-1580.

of the alleged detention of [REDACTED] in the underground cell.[2946]

C. EVIDENTIARY ANALYSIS

1074. The Chamber considered testimonial evidence from Seleka insiders and public security officials, in addition to the evidence provided by the victims of the charged incidents, together with documentary evidence concerning the functioning of the OCRB during the period relevant to the charges.[2947]

1. Functioning of the OCRB

a) Location and layout

1075. The evidence shows that the OCRB was originally established, at the time of President Kolingba, as a police unit responsible for the repression of banditry, given the rise in major crime in CAR.[2948] The OCRB was located in the 1st arrondissement in Bangui, on the intersection between Avenue du Président Mobutu and Rue Joseph,[2949] facing the Directorate General of the Police and less than one kilometre from Camp de Roux.[2950]

[2946] *See* below paras 1581-1582.

[2947] As regards documentary evidence in particular, the Chamber received contemporaneous photographs [REDACTED], in which parts of the main OCRB building, the courtyard, the veranda and additional structures in the courtyard are visible in the background. *See* photographs, CAR-OTP-2064-0791, CAR-OTP-2064-0792, CAR-OTP-2064-0793, CAR-OTP-2064-0794, CAR-OTP-2064-0795, CAR-OTP-2064-0796, CAR-OTP-2064-0797, CAR-OTP-2064-0798, CAR-OTP-2064-0799, CAR-OTP-2064-0800, CAR-OTP-2064-0801, CAR-OTP-2064-0802, CAR-OTP-2064-0803, CAR-OTP-2064-0804, CAR-OTP-2064-0805, CAR-OTP-2064-0806; [REDACTED]. The Chamber also received photographs and videos of the OCRB taken by the Prosecution investigators in 2016 accompanied by a report explaining them. *See* P-3112's OCRB Report, CAR-OTP-2062-0743. In addition, the Chamber received hand-drawn sketches of the OCRB layout by witnesses. *See, for example*, [REDACTED], referring to sketch, [REDACTED]; P-2263: CAR-OTP-2091-3074, at 3083, para. 37, referring to sketch, CAR-OTP-2091-3091; P-1289: CAR-OTP-2053-0359, at 0368, para. 52, referring to sketch, CAR-OTP-2053-0382; P-2931: CAR-OTP-2135-4093, at 4099, para. 35; P-2931, T-046, p. 17, referring to sketch, CAR-OTP-2135-2258. The Chamber notes that the individual sketches are different from each other in terms of the level of detail, orientation and drawing skills, reflecting varying levels of the respective witness's spatial awareness, recollection, and familiarity with the OCRB premises. The Chamber considers that these sketches, when assessed together, generally depicted a similar layout and structure. Further, given that these sketches were drawn from memory and significant time has lapsed since 2013, the Chamber has granted appropriate latitude when assessing them individually. It has also assessed them together with P-3112's report and relied on them when they were mutually corroborated or otherwise consistent with each other.

[2948] P-0338: T-017, pp. 43-44; P-0338: T-019, p. 68.

[2949] Maps, CAR-OTP-2130-7865; CAR-OTP-2017-0904.

[2950] P-0338: T-017, p. 43. P-2478 also confirmed that the OCRB building faces the Directorate General of the Central African police: P-2478: T-033, p. 58. P-2563 stated that the OCRB is in the centre of Bangui and in the 1st arrondissement, 500 or 600 metres away from Camp de Roux: P-2563: T-113, pp. 16-17, 34-35, referring to sketch, CAR-OTP-2114-0319. *See also* P-3112's OCRB Report, CAR-OTP-2062-0743, at 0754-0758 (containing the satellite images showing an aerial view of the OCRB premises in 2013 and its surroundings); P-2280: CAR-OTP-2135-3728, at 3731; P-1737: T-044, p. 36, [REDACTED].

1076. The evidence concerning the layout of the OCRB,[2951] shows that the OCRB compound contained one main building,[2952] a set of four cells situated at the rear of the compound (the 'cellblock to the rear')[2953] and a set of three cells to the side of the compound (the 'cellblock to the side'),[2954] enclosed by brick walls and two metal gates.[2955] There is also

[2951] The Chamber notes that parts of the OCRB building, compound and related structures are visible in contemporaneous photographs [REDACTED]. *See* photographs, CAR-OTP-2064-0791, CAR-OTP-2064-0792, CAR-OTP-2064-0793, CAR-OTP-2064-0794, CAR-OTP-2064-0795, CAR-OTP-2064-0796, CAR-OTP-2064-0797, CAR-OTP-2064-0798, CAR-OTP-2064-0799, CAR-OTP-2064-0800, CAR-OTP-2064-0801, CAR-OTP-2064-0802, CAR-OTP-2064-0803, CAR-OTP-2064-0804, CAR-OTP-2064-0805, CAR-OTP-2064-0806; [REDACTED]. The Chamber considered these together with the photographs and videos of the OCRB taken by the Prosecution investigators in 2016, together with a report contextualising them. *See* P-3112's OCRB Report, CAR-OTP-2062-0743, at 0763, 0771, 0773, 0786, 0851, 0853, referring, *inter alia*, to photographs, CAR-OTP-2033-6811 (view from the main entrance into the compound showing the main building relative to the cellblock on the side and the cellblock to the rear of the compound with the tree partly visible), CAR-OTP-2033-6847 (view of the rear doorway to the main building and the tree next to the cellblock to the rear), CAR-OTP-2033-6864 (view of the rear doorway and veranda), CAR-OTP-2033-7038 (view from the rear doorway of the main building looking into the courtyard with the cellblock to the rear of the compound and tree partly visible), CAR-OTP-2033-7024 (showing the tree next to the cellblock to the rear of the compound and the veranda), CAR-OTP-2033-6871 (showing the cellblock to the rear of the compound with the white MOOV building visible in the background). *See also* [REDACTED]; P-2563: T-114, pp. 12-13, referring to photograph, CAR-OTP-2064-0794 ([REDACTED]).

[2952] P-0338: T-019, p. 18, stating that between 2012/2013 and the date of his testimony (11 October 2022), the buildings at the OCRB remained unchanged and there had not been any new constructions); P-2478: T-033, pp. 49-50; P-3112's OCRB Report, CAR-OTP-2062-0743, at 0754-0755, 0757-0758, referring to satellite images (indicating that these structures had not changed between the timeframe of the events in 2013 and the year the report was produced, 2016). *See also* P-3112's OCRB Report, CAR-OTP-2062-0743, at 0770-0774, referring to a satellite image and photographs, CAR-OTP-2033-6811, CAR-OTP-2033-6828, CAR-OTP-2033-6838, CAR-OTP-2033-6847, CAR-OTP-2033-6864; video of OCRB main building, CAR-OTP-2033-7875; P-2563: T-113, p. 35, referring to sketch, CAR-OTP-2114-0319 (annotated version, CAR-REG-0002-0137); P-2105: T-023, pp. 57-58, referring to photograph of OCRB compound, CAR-OTP-2033-6820 (annotated version, CAR-REG-0002-0037).

[2953] P-2105: T-023, pp. 56-57, 61-63, referring to photographs, CAR-OTP-2033-6811 (annotated version, CAR-REG-0002-0036), CAR-OTP-2033-6871 (annotated version, CAR-REG-0002-0038); P-3112's OCRB Report, CAR-OTP-2062-0743, at 0851; photographs of first cell from left to right of the cellblock at the rear of the compound, CAR-OTP-2033-6872, CAR-OTP-2033-6874, CAR-OTP-2033-6880, CAR-OTP-2033-6883, CAR-OTP-2033-6893; video of the first cell from left to right of the cellblock at the rear of the compound, CAR-OTP-2033-7870; photographs of the second cell from left to right of the cellblock at the rear of the compound, CAR-OTP-2033-6906, CAR-OTP-2033-6907, CAR-OTP-2033-6908, CAR-OTP-2033-6910, CAR-OTP-2033-6923; videos of the second cell from left to right of the cellblock at the rear of the compound, CAR-OTP-2033-7868, CAR-OTP-2033-7869; photographs of the third cell from left to right of the cellblock at the rear of the compound, CAR-OTP-2033-6944, CAR-OTP-2033-6946, CAR-OTP-2033-6948, CAR-OTP-2033-6955, CAR-OTP-2033-6979; photographs of the fourth cell from left to right of the cellblock at the rear of the compound, CAR-OTP-2033-7000, CAR-OTP-2033-7001, CAR-OTP-2033-7003, CAR-OTP-2033-7009, CAR-OTP-2033-7013; video of the fourth cell from left to right of the cellblock at the rear of the compound, CAR-OTP-2033-7871. *See also* corrections to P-3112's OCRB Report, CAR-OTP-00037598. There is evidence that the first cell from the left was used as storage: [REDACTED].

[2954] P-2105: T-023, pp. 56-57, referring to photograph, CAR-OTP-2033-6811 (annotated version, CAR-REG-0002-0036); P-1737: T-045, pp. 21-22, referring to photograph, CAR-OTP-2033-7703; P-3112's OCRB Report, CAR-OTP-2062-0743, at 0862, 0868-0869, referring to photographs of the first cell to the left hand side of the cellblock at the side of the compound, CAR-OTP-2033-7130, CAR-OTP-2033-7133, CAR-OTP-2033-7137, CAR-OTP-2033-7144.

[2955] For the main gate opening to the front of the OCRB building, *see* P-2105: T-023, p. 56, referring to photograph, CAR-OTP-2033-7718; P-2563: T-113, pp. 34-37, referring to sketch, CAR-OTP-2114-0319 (annotated version, CAR-REG-0002-0137); P-1737: T-045, p. 15, referring to photograph, CAR-OTP-2033-7718; P-3112's OCRB Report, CAR-OTP-2062-0743, at 0767-0768, referring to photographs, CAR-OTP-2033-

evidence that additional structures next to each cellblock functioned as sanitation facilities[2956] and a kitchen.[2957]

1077. The evidence shows that the main building of the OCRB could be accessed via stairs: a front entrance facing towards the Directorate General of the Police,[2958] a back entrance facing the cellblock to the rear,[2959] and a side entrance facing the cellblock to the side.[2960]

1078. The Chamber received evidence about the rooms inside the main OCRB building.[2961] It shows that there was a police station situated immediately as one entered through the main entrance,[2962] with the office of the Director of the OCRB next to it,[2963] along with other offices meant for other police officials.[2964]

1079. The evidence shows that Mr Said set up his office in the back of the main OCRB building,

7339, CAR-OTP-2033-7718. For the second gate opening into the rear of the OCRB building, *see* P-2563: T-113, p. 34, referring to sketch, CAR-OTP-2114-0319 (annotated version, CAR-REG-0002-0137); P-3112's OCRB Report, CAR-OTP-2062-0743, at 0766, referring to photographs, CAR-OTP-2033-7326, CAR-OTP-2033-7337. *See also* [REDACTED], referring to photograph, CAR-OTP-2033-6811 ([REDACTED], marking with '1'and '2' both gates, stating that the smaller gate was used when they had visitors or when the Seleka left the compound); [REDACTED], referring to photograph, CAR-OTP-2033-7326; sketch, CAR-OTP-2091-3091.

[2956] [REDACTED] P-3112's OCRB Report, CAR-OTP-2062-0743, at 0852, 0863.

[2957] [REDACTED]. [REDACTED]. *See also* sketch, [REDACTED] (marking 'cuisine' and 'magasin').

[2958] [REDACTED]; P-1737: T-045, pp. 15-16, referring to photograph, CAR-OTP-2033-6811 and sketch, CAR-REG-0002-0102; P-1167: T-035, p. 36, referring to photograph, CAR-OTP-2033-6811 (annotated version, CAR-REG-0002-0078); [REDACTED]; P-3112's OCRB Report, CAR-OTP-2062-0743, at 0772, 0775, referring to photographs, CAR-OTP-2033-6828, CAR-OTP-2033-7154.

[2959] [REDACTED]; P-3112's OCRB Report, CAR-OTP-2062-0743, at 0773-0774, 0786, referring to photographs, CAR-OTP-2033-6847, CAR-OTP-2033-6864, CAR-OTP-2033-7038 (showing the view from inside the building out of the rear doorway facing the cellblock to the rear), CAR-OTP-2033-7029 (showing the ante chamber when entering from the rear doorway), CAR-OTP-2033-7033 (showing windows next to the rear doorway looking out to the cellblock to the rear).

[2960] [REDACTED]; P-3112's OCRB Report, CAR-OTP-2062-0743, at 0771, 0774, referring to photographs, CAR-OTP-2033-6811, CAR-OTP-2033-6820, CAR-OTP-2033-6864.

[2961] The Chamber notes that witnesses often expressed confusion in identifying the rooms within the OCRB main building when shown photographs taken by the Prosecution investigators in 2016. In this respect, the Chamber notes Benjamin Mallo's evidence regarding the changes in the interior of the OCRB main building since 2013: P-0338: T-018, pp. 9-11. The Chamber has taken this into account when generally assessing witness evidence concerning the rooms inside the main OCRB building.

[2962] P-0338: T-018, pp. 5-8, referring to photographs, CAR-OTP-2033-7154 (annotated version, CAR-REG-0002-0020), CAR-OTP-2033-7163 (annotated version, CAR-REG-0002-0021), CAR-OTP-2033-7170, CAR-OTP-2033-7175; [REDACTED]; P-1737: T-044, pp. 25, 40, referring to photograph, CAR-OTP-2033-7154.

[2963] P-0338: T-017, p. 84; P-0338: T-018, pp. 5-11, referring to photographs, CAR-OTP-2033-7154 (annotated version, CAR-REG-0002-0020, indicated with a '1'), CAR-OTP-2033-7170, CAR-OTP-2033-7175, CAR-OTP-2033-7194 (annotated version, CAR-REG-0002-0024), CAR-OTP-2033-7215, CAR-OTP-2033-7270 (stating that he was not sure whether this was the correct office as the décor had changed); P-2563: T-113, p. 35, [REDACTED].

[2964] This included the office of the head of the police intervention unit and the office of the head of the police investigations unit: P-0338: T-018, pp. 6, 8-9, referring to photographs, CAR-OTP-2033-7163 (annotated version, CAR-REG-0002-0021), CAR-OTP-2033-7205; [REDACTED].

to the left when approaching from the back entrance to the building.[2965]

1080. Witnesses also recalled that Mr Said would sometimes work at one of the desks in the back of the compound under a tree and close to the cellblock to the rear,[2966] and that other Seleka members would also work on these desks.[2967]

b) Detentions at the OCRB

1081. Witnesses recalled that the Seleka established a base at the OCRB after 24 March 2013 until 30 August 2013, when they had to vacate it.[2968] There is evidence that, during this period, the OCRB Seleka were using the OCRB premises as a facility, detaining people perceived to be supporters of François Bozizé.[2969]

1082. The Chamber also received evidence that the OCRB Seleka detained people for other reasons, including for alleged criminal conduct[2970] or for being involved in anti-Seleka

[2965] P-0338: T-018, pp. 4-7, 35-39 (indicating that everything looked different and that there was a trap door covering the hole at the time and Colonel Said's desk was positioned on a grey rug), referring to photographs, CAR-OTP-2033-7326 (showing the outside walls of the OCRB compound, including an entrance leading to Mr Said's office), CAR-OTP-2033-7337 (showing the entrance to the OCRB compound leading to Mr Said's office), CAR-OTP-2033-7163 (annotated version, CAR-REG-0002-0021, marking the direction to Mr Said's office with and 'S'), CAR-OTP-2033-7041 (annotated version, CAR-REG-0002-0026), CAR-OTP-2033-7056 (annotated version, CAR-REG-0002-0027), CAR-OTP-2033-7555 (annotated version, CAR-REG-0002-0028); [REDACTED]. *See also* P-3112's OCRB Report, CAR-OTP-2062-0743, at 0775, 0787.

[2966] [REDACTED]. [REDACTED] stated that Mahamat Said would sit at this location when there was no longer any sun and soldiers close to him would also be there and would spend time there chatting: [REDACTED]. [REDACTED] recalled that Mr Said would drink his tea there and receive visitors, and sometimes, at noon, he would be present when the detainees were brought out of their cells to meet their relatives: [REDACTED]. *See also* [REDACTED]. The Defence submits that it is impossible to tell where Mr Said worked at the OCRB given that a number of witnesses are inconsistent as to where Mr Said worked. The Chamber does not consider the fact that different witnesses placed Mr Said as working in different locations at the OCRB to render their evidence inconsistent. In this regard, the Chamber notes that several witnesses (for example, [REDACTED]) testified that Mr Said had an office in the main OCRB building and also worked in the courtyard of the OCRB. *Contra* [REDACTED].

[2967] P-0338: T-018, pp. 40-41, referring to photograph, CAR-OTP-2033-6871 (annotated version, CAR-REG-0002-0029 marked a location under the tree with an 'x' and marked '1' on the wooden bench shown in the photograph); [REDACTED]. *See also* [REDACTED]. [REDACTED] gave evidence that Tahir initially installed himself in Benjamin Mallo's office but that after a few weeks, he set himself outside with a table, in front of the cellblock at the rear of the OCRB courtyard, which became his 'office'. [REDACTED] marked this location on a sketch. [REDACTED], when asked about Mr Said having his office under the tree, maintained that Mr Said's office was inside the building and he would sometimes join Tahir under the tree. *See* [REDACTED].

[2968] Benjamin Mallo stated that after the Seleka took over, Seleka members who 'were directly under Nouradine Adam were based at the OCRB': P-0338: T-017, p. 64. Jean-Jacques Demafouth stated that once the Seleka arrived in March 2013, they took control of the OCRB: P-2328: T-130, p. 29; P-1967: CAR-OTP-2069-0498 at 0582. *See also* above para. 620.

[2969] *See* below paras 1189-1203 (Incident A), 1206-1225 (Incident B), 1231-1243 (Incident C), 1248-1263 (Incident G), 1288-1296 (Incident H), 1318, 1322-1324 (Incident I), 1362-1376 (Incident L), 1395-1425 (Incident M), 1430-1439 (Incident N), 1442-1485 (Incident O), 1491-1506, 1519-1527, 1528-1564 (Incident Q), 1569-1576 (Incident R).

[2970] P-1737: T-044, p. 21; P-1970: CAR-OTP-2087-9396, at 9402, para. 25; [REDACTED].

demonstrations,[2971] or for no reason at all.[2972] In this regard, several witnesses testified that the Seleka often invented reasons to arrest people and that it was difficult to tell why some individuals were arrested.[2973] [REDACTED] testified that adult men and women, who had sometimes already been wounded, were brought every day to be put in the OCRB cells.[2974]

1083. The Chamber also received evidence that the OCRB Seleka were detaining Seleka members.[2975] In respect of Seleka members detained at the OCRB, witnesses testified that they would sometimes be treated differently.[2976] For example, [REDACTED] testified that although some Seleka were imprisoned at the OCRB and punished, they received 'special treatment', explaining that they would be detained and then released, after which they would resume their activities.[2977]

c) Registration of detainees and record-keeping

1084. The evidence shows that when the Seleka brought people to the OCRB, the OCRB Seleka would question them about their identity and register their details in a log.[2978] [REDACTED] two logs, one containing the details of the detainees and an incident logbook (*cahier d'évènements*), recording 'everything that had happened that day'.[2979]

[2971] P-0338: T-018, pp. 12-13, 25.
[2972] P-0338: T-019, p. 33. Benjamin Mallo stated that the Seleka were not representatives of justice and they would hold people and say they were thieves and just put them in prison, recalling that people were sometimes arrested for just standing in the streets: P-0338: T-018, pp. 58-59. [REDACTED] testified that there were many different reasons for arrests, but the people were mainly arrested for revenge and due to personal problems in the neighbourhoods, recalling that if someone had had a problem with a Seleka member, then they would be arrested, as a way of settling an account: [REDACTED].
[2973] *See* P-0338: T-018, pp. 58-59. *See also* [REDACTED].
[2974] [REDACTED].
[2975] [REDACTED]; P-1970: CAR-OTP-2087-9396, at 9402, para. 25.
[2976] For example, the Chamber notes that Yaya was detained at the OCRB following the escape of the Yalo brothers, but his cell was not locked and he was able to get out. In addition, the Chamber received evidence he was also in charge of questioning other detainees while he was supposedly detained in a cell at the OCRB. *See* below para. 1169. The Chamber notes that this is consistent with the evidence it received regarding Seleka members detained at other detention sites. For example, P-1180 testified about a Seleka member he was detained with at Camp de Roux who was able to leave his cell during the day and let P-1180 and others call their families to tell them where they were. *See* P-1180: CAR-OTP-2043-0483, at 0502, paras 136-139.
[2977] [REDACTED].
[2978] [REDACTED] duty officers were responsible for writing down the information of detainees when they would come in: [REDACTED]; [REDACTED] this information included the person's affiliations, the information, their name, their address, the grounds on which the person had been arrested, what belongings the individual had on their person at the time of the arrest (such as wallets and telephones): [REDACTED]; [REDACTED]. The Chamber has also considered Benjamin Mallo's evidence that the administration of the OCRB, as regards the record-keeping of detainees, was 'just abandoned' and that there was no system to see which detainees was inside which cell: P-0338: T-018, p. 43.
[2979] [REDACTED].

1085. The Chamber received evidence that the information recorded by the Seleka was not shared with the police who were present at the OCRB or shared with any judicial authorities.[2980] In this regard, Benjamin Mallo testified that the system that had been in place before the Seleka arrived in Bangui was abandoned and there was no way for them to see who was actually detained in the cells.[2981] Benjamin Mallo recounted that in order to find out who had been detained at the OCRB by the Seleka he had to speak to a Seleka member who would surreptitiously come to his office to tell him who was detained in the outside cells.[2982] Similarly, Jean-Claude Sophil testified that no paperwork was produced in relation to those detained by the Seleka and he did not know what was going on there.[2983] The Chamber observes that this is largely consistent with the report of the UNHCHR dated July 2013 which stated that the UN fact-finding mission visited two detention facilities, including the OCRB, and the 'penitentiary authorities' failed to provide them with registration books for the persons deprived of liberty.[2984]

d) Physical mistreatment

1086. There is evidence of the OCRB Seleka routinely mistreating detainees physically and psychologically.[2985] A Seleka member gave evidence that beatings would be carried out by between three to five Seleka members under orders.[2986] The witness indicated that the OCRB Seleka carried out these beatings routinely and 'hit the person hard and [if] the person didn't speak [this meant] that this must not be the guilty person'.[2987] P-3047 testified that he saw Seleka members beat up a disabled detainee, whom they hit, forced to cover himself with mud and made him look at the sun.[2988]

1087. As set out below, there is consistent evidence that the OCRB Seleka would commonly tie detainees up using the *arbatachar* manner, which involved forcing a person to lay

[2980] *Contra* Defence Closing Brief, ICC-01/14-01/21-1039-Red, paras 303-304.
[2981] P-0338: T-018, pp. 43, 62.
[2982] P-0338: T-018, p. 13.
[2983] P-0787: CAR-OTP-2036-0410, at 0422, para. 57.
[2984] UNHCHR Fact-Finding Mission Report, CAR-OTP-2034-0270, at 0286, para. 83.
[2985] P-0338: T-018, pp. 26, 28. Benjamin Mallo gave examples of OCRB Seleka striking detainees with a rope or throwing water on them: P-0338: T-018, p. 28. *See also* [REDACTED].
[2986] [REDACTED]. The witness testified that certain OCRB Seleka were 'specialised' in the beatings of detainees, stating that certain OCRB Seleka members 'grew accustomed to carrying out these beatings, because they were always there, they were present, and when someone needed to be beaten up, they did this': [REDACTED]. *See also* [REDACTED]. The Chamber also notes the evidence that Mr Said ordered that detainees be beaten: *see* below para. 1131.
[2987] [REDACTED].
[2988] P-3047: CAR-OTP-2130-6904, at 6911, para. 40.

down on their stomach and tying all their four limbs together in the back with a cord.[2989] A Seleka member testified that this would force people to admit their guilt as quickly as possible, adding that:

> when you're tied up like this and you don't want to talk, you receive several lashes of the whip in order to create more pain and make you speak faster. Since you're tied up, it's difficult for you to breathe. You can't talk easily, so you can only scream to free you in order to -- so that you can tell the truth. And then when you are untied, that's when you will tell the truth.[2990]

1088. Benjamin Mallo stated that, from among the subordinate OCRB Seleka, there were specialists in tying people up in the *arbatachar* manner, as it would take more than one person to do the tying.[2991]

1089. P-3047 testified that during the first night of his detention in the OCRB, the Seleka came at around 02:00 and took away one of the detainees and that the other detainees told him that the Seleka took one detainee every night to kill.[2992] He stated that he was terrified that the Seleka would call his name every time they knocked on the door of the cell.[2993] P-2692 confirmed that prisoners were taken away at night, but stated that he did not know what happened to them.[2994] A witness stationed at the OCRB similarly recalled four occasions during August or September 2013[2995] when he witnessed prisoners being removed from cells by Colonel Sallet and Damboucha, tied up in the arbatachar method by Djidou, the aide-de-camp of Mahamat Sallet, and put in the back of a vehicle and driven toward the river, towards Hotel Sofitel.[2996]

e) Detention conditions

i. Cells in the courtyard

1090. The evidence shows that people were detained in cells in the courtyard as well as in the

[2989] P-1167: T-035, p. 20; P-2105: T-024, pp. 41-42; P-1737: T-044, p. 53; P-1420: CAR-OTP-2040-0811, at 0825, para. 84. P-1167 testified that when the Seleka arrest you 'the first thing to do is to tie you up with the arbatachar method' adding that the Seleka cannot 'put you in a vehicle until they've first tied you up': P-1167: T-036, p. 61.
[2990] [REDACTED]. There is other consistent evidence that after a detainee was tied up in this manner, the OCRB Seleka would pour water on them and beat or whip them. *See* P-0338: T-018, p. 30.
[2991] P-0338: T-018, p. 30.
[2992] P-3047: CAR-OTP-2130-6904, at 6911, paras 38-39.
[2993] P-3047: CAR-OTP-2130-6904, at 6912, para. 43.
[2994] P-2692: CAR-OTP-2125-0922, at 0929, para. 35.
[2995] [REDACTED].
[2996] [REDACTED].

underground cell.[2997] The Chamber received evidence that the cells in the courtyard were overcrowded at times to such an extent that the detainees had difficulty breathing and had to take turns in lying down.[2998] P-3047 testified that he was detained with many people in a cell and described the smell as sickening as the detainees used bottles to urinate in and pots to defecate in and smelled as though they had not been able to wash in a long time.[2999]

1091. The Chamber received evidence that, more often than not, the detainees would be allowed out of their cells once a day, but if there were enough OCRB Seleka present to guard the detainees, then the detainees would be let out twice a day, once in the morning and once in the afternoon for a maximum of 30 minutes.[3000] The Chamber also received evidence that family visits would often coincide with these times,[3001] and while there was no system for providing food or water for detainees at the OCRB,[3002] family members would provide them with food and water during these visits.[3003]

1092. [REDACTED] testified that the detainees received no medical treatment or care at all and that it was 'the good lord who preserved their lives'.[3004] [REDACTED] added that '[a]fter the prisoners were beaten up, they were put in the cells, they were feeling pains everywhere [and] would complain to their relatives, some of whom brought them Paracetamols'.[3005] Benjamin Mallo testified that the situation was very difficult as NGOs

[2997] P-1004: CAR-OTP-2043-0536, at 0541, para. 38; P-1167: T-035, p. 19.
[2998] Benjamin Mallo stated that he did not know the precise number of detainees but approximated that there were 10 to 15 detainees in each cell, although it varied: P-0338: T-018, pp. 27-28. Benjamin Mallo testified that there was a significant difference in the number of detainees at the OCRB before and after the Seleka takeover and recalled cells at the OCRB being over-crowded, noting that the Seleka did not pay any attention to the number of detainees, as no one was keeping a tally of numbers and nobody was carrying out checks. *See* P-0338: T-018, pp. 61-62. A Seleka member, referring to the cellblock to the side, testified that he saw a lot of people in these cells, recalling that they had difficulty breathing: [REDACTED], referring to photograph, CAR-OTP-2033-7064 ([REDACTED]). *See also* P-2692: CAR-OTP-2125-0922, at 0927, para. 29; P-1743: T-086, p. 44; P-2263: CAR-OTP-2091-3074, at 3079-3080, para. 23; P-2295: CAR-OTP-2130-9460, at 9465, para. 26; P-2931: CAR-OTP-2135-4093, at 4100, para. 41; P-2519: CAR-OTP-2127-9471, at 9479, para. 59; P-0547: T-012, pp. 39-40; P-2400: CAR-OTP-2104-0424, at 0435, para. 53; P-2239: CAR-OTP-2104-0918, at 0929, para. 48.
[2999] P-3047: CAR-OTP-2130-6904 at 6910, paras 36-37.
[3000] [REDACTED]; A Seleka member stated that jail keepers would sometimes let the detainees 'go out' so that they could 'breathe a bit' before returning them to the cells: [REDACTED]. [REDACTED] testified that detainees would leave their cells to empty out the buckets of urine and excrement: [REDACTED]. *See also* P-0338: T-018, p. 27.
[3001] [REDACTED].
[3002] P-0338: T-018, p. 27; P-2105: T-024, pp. 53-54. *See also* P-1004: CAR-OTP-2043-0536, at 0541, para. 37; P-2263: CAR-OTP-2091-3074, at 3079-3080, para. 23.
[3003] P-2563: T-113, p. 39; P-1167: T-035, p. 40; P-0338: T-018, p. 27.
[3004] [REDACTED].
[3005] [REDACTED].

were unable to provide the same assistance as before.[3006]

ii. Underground cell

1093. The evidence also shows that there was a walled rectangular space underneath the floorboard of Mr Said's room (the 'underground cell')[3007] which is shown in a number of photographs submitted into evidence.[3008] A Seleka member testified that the underground cell had been dug during the very construction of the OCRB building.[3009] P-2519 stated that, long before the Seleka arrived at the OCRB, police officers would 'sometimes arrest criminals and lock them' in the underground cell.[3010]

1094. There is evidence that the OCRB Seleka used the underground cell to detain people from June 2013 at the latest until the end of August 2013.[3011] The evidence of witnesses, who describe being detained in the underground cell, does not show that there was a general practice regarding registration of detainees placed in the underground cell.[3012] Benjamin Mallo testified that Mr Said told him that the underground cell was used to detain

[3006] Benjamin Mallo stated that when he arrived at the OCRB in 2012, the Red Cross would monitor whether there were any ill people, adding that they were unable to provide help after the arrival of the Seleka because they were systematically looted: P-0338: T-018, pp. 44-45.
[3007] The Chamber notes that the photographs of the OCRB main building from 2013 and 2016 show that it stood at an elevation from the ground and one had to climb staircases to enter the building. Accordingly, while the cell is underneath the floor in Mr Said's room, it was partly above ground level. Photographs from 2016 also show that the underground cell had a rectangular window at the ground level, which was facing the back entrance of the OCRB compound. *See* photograph, CAR-OTP-2033-6838; P-3112's OCRB Report, CAR-OTP-2062-0743, at 0762-0763, 0772-0773. The Chamber also notes that the photographs taken by the Prosecution investigator in 2016 and the Defence in 2025 show that the underground cell had four walls and there was no provision for ventilation or lighting, except for the aforementioned window and the gaps in the wooden planks used to cover the entrance of the underground cell. *See* P-3112's OCRB Report, CAR-OTP-2062-0743, at 0788, 0845-0846, referring to photographs, CAR-OTP-2033-7061, CAR-OTP-2033-7732, CAR-OTP-2033-7531, CAR-OTP-2033-7554. *See* Defence OCRB Report, CAR-D33-0014-3721, at 3736-3739; photographs, CAR-D33-0014-3548, CAR-D33-0014-3556, CAR-D33-0014-3558, CAR-D33-0014-3559; videos, CAR-D33-0014-3560, CAR-D33-0014-3618. *See* above para. 1080 (regarding the location of Mr Said's office).
[3008] P-2563: T-113, pp. 22, 30-31, referring to photographs, CAR-OTP-2033-7056 ([REDACTED]), CAR-OTP-2033-7060 ([REDACTED]); P-0338: T-018, pp. 35-39, referring to photographs, CAR-OTP-2033-7041 (annotated version, CAR-REG-0002-0026), CAR-OTP-2033-7056 (annotated version, CAR-REG-0002-0027), CAR-OTP-2033-7555 (annotated version, CAR-REG-0002-0028), CAR-OTP-2033-7554; P-1737: T-044, p. 40, [REDACTED]. *See also* P-3112's OCRB Report, CAR-OTP-2062-0743, at 0787-0788.
[3009] [REDACTED], referring to photographs, CAR-OTP-2033-7729, CAR-OTP-2033-7061.
[3010] P-2519: CAR-OTP-2127-9471, at 9483, para. 80.
[3011] P-2563: T-113, pp. 22-23; P-1004: CAR-OTP-2043-0536, at 0541, para. 38. *See* below paras 1396, 1401, 1416-1417, 1421, 1423-1425 (Incident M), 1438 (Incident N), 1456-1459 (Incident O), 1538, 1540 (Incident Q), 1568, 1570, 1572-1573, 1577 (Incident R).
[3012] *See, for example*, [REDACTED]. P-3064, P-3056 and P-3053 recalled being registered at the OCRB Ngouciment before being brought to the OCRB and placed in the underground cell. P-3056 stated that the OCRB Seleka also registered them at the OCRB, but this aspect of his account was not corroborated by P-3064 or P-3053. *See* below paras 1391, 1395, n. 4067. P-0547 recalled that the OCRB Seleka registered him at the OCRB before placing him in the cell in the courtyard and also that [REDACTED] before the OCRB Seleka placed him in the underground cell: P-0547: T-012, pp. 38-39, 62. P-2400 testified that the OCRB Seleka registered his name before placing him in the underground cell: P-2400: CAR-OTP-2104-0424, at 0432, para. 39.

'Djotodia's prisoners'.[3013]

1095. Although the Chamber received no reliable evidence of the precise dimensions of the underground cell, it is satisfied, based on the video recorded by Defence witness, Emma Conty, that the entrance to the underground cell was approximately 2 metres by 1 metre,[3014] and, based on other audio-visual evidence that the interior of the cell would have been slightly bigger.[3015]

1096. With regard to the conditions in the underground cell generally and applicable to the detainees discussed above, the Chamber notes the testimony of witnesses who were detained there and described it as 'actually a hole with no stairs',[3016] dark,[3017] cramped,[3018] and with insufficient air.[3019] Detainees had to urinate and defecate inside the basement.[3020] Other witnesses described the underground cell as very dirty,[3021] having an unbearable stench,[3022] and smelling of faeces and urine.[3023] One witness, P-3064, who was detained in the underground cell in August 2013, stated that it was 'unliveable', recalling that 'there were insects which crawled on our bodies while we were within the hole' and that 'it was full of human faeces'.[3024] P-1432 similarly recalled the conditions in the underground cell in August 2013 being 'very difficult because of the heat'.[3025] There is evidence that there was no system in place at the OCRB to provide the detainees in the underground cell with food.[3026] P-0547, P-2400, P-1762 and P-1432, who had

[3013] P-0338: T-018, p. 13.
[3014] The Chamber received a report prepared by Defence witness P-0036 as part of a site visit in 2025 that included a video recording the measurement of the entrance to the underground cell. *See* Defence OCRB Report, CAR-D33-0014-3721, at 3740, referring to video, CAR-D33-0014-3560. The Chamber notes that the measurements of the entrance to the underground cell are visible in the video which shows how the measurements were carried out and displays the following figures: 2 metres (length) by 90 centimetres (width).
[3015] Defence OCRB Report, CAR-D33-0014-3721, at 3740, referring to videos, CAR-D33-0014-3560, CAR-D33-0014-3618 and photograph, CAR-D33-0014-3557. The Chamber further notes that this report included the measurements of the three dimensions of the underground cell itself. However, the audio-visual material adduced in support did not assist the Chamber in assessing how these measurements were taken and whether they are accurate. Having regard to its conclusions on Defence witness, P-0036's reliability generally, the Chamber was unable to rely on the measurements of the underground cell mentioned in the report. *See* above paras 309-315. *See also* P-3112's OCRB Report, CAR-OTP-2062-0743, at 0788, 0845-0846, referring to photographs, CAR-OTP-2033-7061, CAR-OTP-2033-7732, CAR-OTP-2033-7531, CAR-OTP-2033-7554.
[3016] P-1762: CAR-OTP-2073-0568, at 0579, para. 66.
[3017] P-2400: T-031, p. 24; P-1762: T-081, p. 12; P-3064: T-075, p. 6.
[3018] P-1762: CAR-OTP-2073-0568, at 0579, para. 66; P-1762: CAR-OTP-2073-0568, at 0579, para. 69.
[3019] P-2400: CAR-OTP-2104-0424, at 0433, para. 44.
[3020] P-2400: CAR-OTP-2104-0424, at 0434, para. 46. *See also* P-0547: T-013, p. 14.
[3021] P-2400: CAR-OTP-2104-0424, at 0433, paras 44-45.
[3022] P-0547: T-013, p. 4; P-1762: CAR-OTP-2073-0568, at 0579, para. 67.
[3023] P-2400: CAR-OTP-2104-0424, at 0433, paras 44-45.
[3024] P-3064: T-074, p. 21.
[3025] P-1432: CAR-OTP-2073-0743, at 0750, para. 48.
[3026] P-1762: CAR-OTP-2073-0568, at 0580, para. 68; P-1432: CAR-OTP-2073-0743, at 0751, para. 51

severe injuries from their mistreatment at the hands of the Seleka, gave evidence that when they were detained in the underground cell at the OCRB, they did not receive any medical assistance.[3027]

f) Procedural guarantees

1097. As set out in detail below, there is evidence that the OCRB Seleka did not provide detainees at the OCRB with procedural guarantees.[3028] Benjamin Mallo testified that 'at normal times', if people had to be put in a cell, the police would inform the prosecutor and log everything, registering their names and affiliations, because at any time the prosecutor could come and check the cells. Benjamin Mallo stated that there was a very big difference when the OCRB Seleka were there, which 'was like night and day' and that 'it was chaos after they came'.[3029] Benjamin Mallo testified that when the Seleka were based at the OCRB, the judicial procedure did not exist *per se*,[3030] and the Seleka were not answerable or accountable to the prosecutor, as 'it was their business and they would just manage it the way they wanted'.[3031] There is evidence that there was no procedure in place to inform the relatives of persons detained at the OCRB and detainees and their family members had to rely on word of mouth to find out about their relatives' detention at the OCRB.[3032] Benjamin Mallo stated that the Seleka had full discretion to purportedly arrest people and that their reasons to do so were not apparent.[3033] As discussed further below in relation to the respective incidents, the Seleka, when apprehending people before bringing them to the OCRB, would sometimes accuse them expressly of having links with the military or with François Bozizé. The Chamber

[3027] P-2400: CAR-OTP-2104-0424, at 0436, para. 59; P-1762: CAR-OTP-2073-0568, at 0580, para. 70.
[3028] CAR Criminal Procedure Code, CAR-OTP-2001-3680, at 3687-3688, 3691-3694, articles 40, 48-49, 73, 77-78, 85-86, 88-89, 91-93. P-0338: T-018, p. 62.
[3029] Benjamin Mallo testified that, before the Seleka came, the police would have to present persons who were subject to charges before the prosecutor within a week, they had to comply with deadlines and they were not allowed to have cell overcrowding, particularly for those awaiting trial. [REDACTED].
[3030] P-0338: T-019, p. 32.
[3031] P-0338: T-018, p. 59.
[3032] P-0338: T-018, pp. 59-60. Benjamin Mallo explained that in Bangui, 'everyone knows each other and if someone was arrested on the streets, people know and the information is immediately sent to the parents' and sometimes people would tell their parents in which direction the persons were taken, so that they could start looking for their children. Benjamin Mallo stated that parents would come to the OCRB and check if their child was there and they would go and see Colonel Said, who would call Yaya and Tahir to find out if the person was there. *See also* [REDACTED]. An OCRB Seleka testified that people, who were arrested from their home, their relatives would be aware, but those who were arrested in other circumstances would ask to be put in contact with their relatives, and this request was often done during visiting hours, when the detainee would leave their cell. [REDACTED].
[3033] P-0338: T-018, pp. 58-59. Benjamin Mallo noted that he would ask the question and would be told that they were thieves, bandits: P-0338: T-019, p. 33.

considers that these accusations, in themselves, were not sufficient to fulfil the legal requirement of informing someone of the reasons for their arrest and subsequent detention. Benjamin Mallo testified that it was within the OCRB Seleka's discretion to 'just stop and question people'.[3034] Benjamin Mallo stated that if the OCRB Seleka members took a prisoner out of a cell, questioned them and returned them back to a cell, they would just open the door of the cell and, if there was room, they would push the prisoner in there.[3035]

1098. There is evidence that the prosecutor did not carry out regular visits to the OCRB when the Seleka were based there, however, witnesses recalled occasional visits.[3036] Benjamin Mallo gave evidence that Prosecutor Tolmo did not question people detained by the Seleka and so the detainees could not tell the truth about what was happening to them.[3037] However, there is also evidence that Prosecutor Tolmo interviewed some detainees from the OCRB at his office in August 2013.[3038]

1099. There is evidence that the detainees at the OCRB had no access to legal assistance or a lawyer.[3039] P-3047 testified that throughout his detention at the OCRB he never met with a lawyer and no one ever told him that he had any rights.[3040] P-1762 stated that when the Seleka brought him to the OCRB no one asked him about his identity or the phone numbers of his family members, nor was he told of the reason for his detention.[3041]

1100. There is also consistent evidence that the OCRB Seleka demanded payment from the family members of persons detained at the OCRB to secure their release.[3042] [REDACTED] stated that as soon as the detainees had paid, they were released without going through the judicial procedures, without referring to the police to draw up the file

[3034] P-0338: T-018, p. 62.
[3035] P-0338: T-018, p. 62.
[3036] Benjamin Mallo testified that he could not recall regular visits by Prosecutor Tolmo and that it was not easy for the prosecutor to visit regularly to ask after the victims who were held at the OCRB: P-0338: T-018, p. 61. [REDACTED] told Prosecutor Tolmo to come and check the cells and he did, in fact, come and check the OCRB cells several times, these visits were not regular or as frequent as the period before the Seleka arrived: [REDACTED]. [REDACTED] testified that, when he was working at the OCRB, he never saw or met Prosecutor Tolmo within the OCRB', 'never saw them carrying out a visit', and 'never received any requests for reports on the prisoners': [REDACTED].
[3037] P-0338: T-019, p. 25.
[3038] *See* below paras 1413-1415.
[3039] P-0338: T-018, p. 59; [REDACTED].
[3040] P-3047: CAR-OTP-2130-6904, at 6913, para. 49.
[3041] P-1762: CAR-OTP-2073-0568, at 0578, para. 59.
[3042] P-0338: T-018, pp. 59-60; P-2478: CAR-OTP-2107-8835, at 8841, para. 21; P-1167: T-035, p. 20; P-1180: CAR-OTP-2043-0483, at 0505, paras 148-149.

for these cases.[3043]

1101. The report of the UNHCHR dated July 2013 stated that the UN fact-finding mission visited two detention facilities, including the OCRB and the 'penitentiary authorities' failed to provide them with registration books for the persons deprived of liberty, as well as to respond to basic due process inquiries.[3044] The report further stated that the mission interviewed detainees, who said that they had not been informed at the time of their arrest of the charges against them or brought promptly before a judge or other officers authorised by law to exercise judicial power.[3045] The report noted that all the detainees had been brought to these detention facilities, including the OCRB, with no apparent legal arrest warrant and exceeded the detention period prescribed by the CAR Criminal Procedure Code.[3046] It added that Prosecutor Tolmo and 'the wardens of the facilities', who met with the mission failed to provide evidence of the lawfulness of detention of persons deprived of their liberty and of due process in accordance with the provisions of the Central African legal framework.[3047]

1102. Having regard to the evidence concerning the procedural guarantees, the Chamber rejects the Defence's arguments that 'efforts were made to ensure the implementation of existing procedural safeguards and criminal procedures' and that 'procedural safeguards were implemented, not perfectly but realistically on a daily basis'.[3048]

2. Role of Mr Said at the OCRB

1103. The following evidentiary analysis will set out the Chamber's assessment of the evidence regarding Mr Said's role, presence and functions at the OCRB during the period relevant to the charges.

[3043] [REDACTED].
[3044] UNHCHR Fact-Finding Mission Report, CAR-OTP-2034-0270, at 0286, para. 83.
[3045] UNHCHR Fact-Finding Mission Report, CAR-OTP-2034-0270, at 0286, para. 83.
[3046] UNHCHR Fact-Finding Mission Report, CAR-OTP-2034-0270, at 0286, para. 83.
[3047] UNHCHR Fact-Finding Mission Report, CAR-OTP-2034-0270, at 0286, para. 83. In this regard, the report drew particular attention to the situation of the detainees who were arrested in connection with the alleged distribution of flyers (*see* Incident H below) and were detained at the OCRB at the time of the fact-finding mission's visit and highlighted concerns regarding the legal basis for their detention: UNHCHR Fact-Finding Mission Report, CAR-OTP-2034-0270, at 0286-0287, para. 84.
[3048] Defence Closing Brief, ICC-01/14-01/21-1039-Red, paras 401, 410. The Chamber has assessed the Defence's arguments concerning the procedural safeguards provided to the victims of specific charged incidents in its assessment of the respective incidents further below.

a) Mr Said's presence at the OCRB

1104. The Defence does not appear to contest that Mr Said was present at the OCRB during the period relevant to the charges. In this regard, the Defence in its closing brief makes reference to Mr Said being in a quartermaster role, submitting that he was the focal point for quartermaster matters in the OCRB and was the resource person concerning supplies, planning shifts and managing the personnel.[3049] The Defence further avers that Mr Said supervised the management of cells, the registration of prisoners and supplies.[3050]

1105. The Chamber did not receive clear evidence as to the date of Mr Said's arrival at the OCRB. According to [REDACTED], Colonel Said arrived at the OCRB at some point after the first attack on Boy Rabe[3051] (which the Chamber found took place on or about 14-16 April 2013).[3052] According to Benjamin Mallo, Colonel Said was already present in the OCRB when he (Benjamin Mallo) arrived at the OCRB in late April 2013.[3053] On the basis of the foregoing, the Chamber is satisfied that Mr Said was present at the OCRB by mid to late April 2013.

1106. In relation to Mr Said's daily presence at the OCRB, a Seleka member testified that Colonel Said had to be there every morning and he would leave in the afternoon and often come in the evening, but would not spend the night at the OCRB.[3054]

1107. The Chamber received evidence that Mr Said was detained at SERD, also known as the SRI,[3055] for a limited time during the period relevant to the charges. [REDACTED] testified that after the escape of the Yalo brothers, Mahamat Said was arrested and sent to the SRI by Nouradine Adam.[3056] [REDACTED] testified that on the day the Yalo brothers escaped, Nouradine [REDACTED] transferred Colonel Said to the SRI that

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[3049] *See* Defence Closing Brief, ICC-01/14-01/21-1039-Red, paras 342, 344, 346, 356-363. The Chamber observes that this submission that Mr Said occupied a quartermaster role was only raised by the Defence in its closing brief and was not directly put to any witnesses who would have been in a position to comment on this matter.
[3050] Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 363.
[3051] [REDACTED]. Although [REDACTED] was unable to recall when he was posted to the OCRB, he remembered that it was after [REDACTED].
[3052] *See* above para. 628.
[3053] P-0338: T-017, p. 63. Benjamin Mallo testified that he arrived at the OCRB in March or April 2013, but it is clear from his testimony that he returned to work after a 'big meeting' (the '*Grand rapport* ') calling the civil servants back to duty, which he recalled occurred after the issuance of a service memo on 18 April 2013: P-0338: T-018, p. 14. P-0338: T-017, pp. 57-58, 63, 69, referring to internal memo, dated 18 April 2013, CAR-OTP-2034-1740.
[3054] [REDACTED].
[3055] [REDACTED].
[3056] [REDACTED].

day.[3057] The Chamber notes that testimonial and documentary evidence indicates that the Yalo brothers had escaped from the OCRB at some point on 10 June 2013.[3058]

1108. In respect of how long Mr Said was detained at the SRI, the Chamber notes that [REDACTED] did not directly state how long Colonel Said was detained; however, [REDACTED] explained that [REDACTED].[3059] [REDACTED] explained that, [REDACTED], Colonel Said was there and in charge,[3060] noting that Colonel Said, Yaya and others had been freed.[3061] Another witness stationed at the OCRB similarly testified that Mahamat Said was only detained for a few weeks and then he was released, resuming his work at the OCRB in the same position.[3062] This is consistent with the Chamber's findings, as set out below, regarding Mr Said's direct involvement in the arrest of [REDACTED] on or around 27 June 2013, which indicates that Mr Said had already returned to the OCRB by this date.[3063] The Chamber further observes that the mission conducted by FIDH to the OCRB, during which they met with Mr Said, took place on 5 July 2013.[3064]

1109. Accordingly, the Chamber is satisfied that Mr Said was absent from the OCRB from around 10 June 2013 and had returned to the OCRB by 27 June 2013. Two Seleka witnesses testified that Colonel Said was still in command of the OCRB after he returned to the OCRB.[3065]

1110. Several witnesses testified that after the Seleka left the OCRB on 30 August 2013,[3066]

[3057] [REDACTED]. *Contra* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 370.
[3058] Although [REDACTED] testified that Mr Said was arrested on the same day that the Yalo brothers escaped, he could not recall the exact date when the Yalo brothers escaped, indicating that it may have been [REDACTED]. [REDACTED]. The Chamber is of the view that other evidence on the record referring to the escape of the Yalo brothers shows that they escaped from the OCRB on 10 June 2013. In particular, the Chamber notes that [REDACTED] testified that the Yalo brothers escaped from their home after going to the court and a document from the *Tribunal de Grande Instance* states that they were given a notice of revocation of their bail at the *Tribunal de Grande Instance* on 10 June 2013 and that they fled thereafter: [REDACTED]; communication by the Public Prosecutor dated 11 June 2013, referring to the Yalo brothers' escape from the OCRB, CAR-OTP-2034-3563 and CAR-OTP-2034-3564. Furthermore, the Chamber notes that the newspaper article reporting on the escape of the Yalo brothers from the OCRB [REDACTED] (from a publication by *L'Agora*) was dated Tuesday, 11 June 2013, which confirms that their escape occurred prior to this date: newspaper article, CAR-OTP-2074-0267.
[3059] [REDACTED].
[3060] [REDACTED].
[3061] [REDACTED].
[3062] [REDACTED].
[3063] *See* above paras 952-953.
[3064] FIDH Report, CAR-OTP-2001-2890, at 2933-2934. FIDH's mission to CAR was conducted between 3 and 13 July 2013. *See* FIDH Report, CAR-OTP-2001-2890, at 2892.
[3065] [REDACTED]. *See also* FIDH Report, CAR-OTP-2001-2890, at 2933-2934.
[3066] *See* above paras 686, 1082.

Colonel Said moved from the OCRB to CEDAD along with some of his Seleka members.[3067]

b) Mr Said's position at the OCRB

1111. The Chamber received evidence from a number of insider witnesses regarding Mr Said's role as head of the OCRB during the period relevant to the charges.[3068] [REDACTED] Mahamat Said was 'head of the OCRB' and had been directly appointed by Nouradine Adam.[3069] [REDACTED].[3070] [REDACTED] testified that Colonel Said arrived with his men [REDACTED].[3071]

1112. [REDACTED] testified that Colonel Said was presented as 'the new person responsible for the OCRB',[3072] describing him as 'the chief in charge of the OCRB'.[3073] [REDACTED] stated that when it came to orders and reports, everything went through Colonel Said.[3074] In respect of the overall control of the OCRB antennae locations, [REDACTED] explained that they were all 'under the command of the central antenna, under the commander, Colonel Said, the commander of the central antenna and the chief of all the other antenna commanders'.[3075] [REDACTED] stated that they were all under the responsibility of Nouradine Adam, noting that Mr Said reported to him.[3076]

1113. [REDACTED], who was also present at the OCRB, testified that when he was deployed there, all Seleka members at the OCRB were under Colonel Mahamat Said's command,[3077] and he (Mr Said) was the 'head of the OCRB'.[3078] [REDACTED] testified that 'all the instructions came from [Mr Said]', explaining that he ([REDACTED]) reported to the commanders who were Colonel Mahamat Said's deputies, who would in turn report to Colonel Mahamat Said,[3079] noting that his 'instructions were executed to

[3067] [REDACTED].
[3068] *Contra* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 363.
[3069] [REDACTED].
[3070] [REDACTED].
[3071] [REDACTED].
[3072] [REDACTED].
[3073] [REDACTED].
[3074] [REDACTED]. *Contra* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 631.
[3075] [REDACTED].
[3076] [REDACTED].
[3077] [REDACTED]. *See also* [REDACTED]. *Contra* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 631.
[3078] [REDACTED].
[3079] [REDACTED].

the letter'.[3080] [REDACTED] similarly stated that Colonel Mahamat Said was 'commanding the OCRB base',[3081] and P-1004 stated that Colonel Said was the 'top ranking official' at the OCRB.[3082]

1114. The Chamber also received evidence from [REDACTED] who testified that, at the OCRB, Mahamat Said was in charge of all the soldiers.[3083] [REDACTED] Colonel Mahamat Said was responsible for supervising him and others and Colonel Mahamat Said would report instructions he had received from his superiors and gave instructions himself.[3084] [REDACTED] stated that Mr Said would ensure that there was a programme for everything being done and he would 'watch over everything happening in the building', deciding on disputes when people filed complaints.[3085]

1115. [REDACTED] Seleka identification badges, [REDACTED] indicated that the section they worked for was 'CMSAK'.[3086] [REDACTED] explained that this meant 'Section: Colonel Mahamat Said Kani'.[3087]

1116. The Chamber also received evidence from a number of police officers stationed at the OCRB who testified about Mr Said's role as being in charge of the OCRB.[3088] Benjamin Mallo stated that the Seleka reported to Colonel Said and that Colonel Said was 'the

[3080] [REDACTED].
[3081] [REDACTED].
[3082] P-1004: CAR-OTP-2043-0536, at 0541, para. 33.
[3083] [REDACTED]. *Contra* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 631.
[3084] [REDACTED]. *See also* [REDACTED]. Although [REDACTED] did not explain who Mr Said's superiors were, when asked about the hierarchy above Mr Said, [REDACTED] explained that the OCRB was monitored by the Minister of Public Security and it could not function without the approval, opinion and supervision of the Minister of Public Security at the time, Nouradine Adam: [REDACTED]. *See* below paras 1141-1144.
[3085] [REDACTED].
[3086] [REDACTED]. A release note given to P-2692 also bears the initials 'C'MSAK': P-2692's release note, CAR-OTP-2125-0936. Although, as set out below in its evidentiary analysis for Incident C, the Chamber is unable to conclude that the OCRB Colonel referred to by P-2692 in his testimony is Mr Said (*see* below paras 1233-1236), the Chamber notes that the inclusion of the initials C'MSAK' on the release note is consistent with the initials on the Seleka ID badges referred to above and considers it indicative of Mr Said's role at the OCRB. The Chamber also observes that the release note bears a telephone number ([REDACTED]) which was attributed to Mr Said by the Prosecution (*see* telecommunications report, CAR-OTP-00000418, at 000003; P-3108, T-028, pp. 58-59) and [REDACTED]. Similarly, P-3056 provided a release note, dated [REDACTED] August 2013, CAR-OTP-2130-6657, which mentions that the note was prepared upon instruction from Mr Said. Although, as set out below in its evidentiary analysis for Incident M, the Chamber was unable to conclude that it was indeed prepared on Mr Said's instructions (*see* below para. 1416, n. 4137), the Chamber considers the fact that Mr Said's name is on the release note is significant and is also indicative of his role at the OCRB.
[3087] [REDACTED].
[3088] *Contra* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 363.

head'[3089] and 'in charge of the OCRB.'[3090] [REDACTED] testified that Colonel Mahamat Said was the 'director of the OCRB' and was in charge of the Seleka along with Tahir.[3091] The Chamber also received evidence from Jean-Claude Sophil who testified that Mahamat Said 'controlled the OCRB' and was the Seleka in charge of the OCRB, noting that all those at the OCRB were under his orders and his command.[3092]

1117. The Chamber also received evidence from a number of OCRB detainees, who testified that Mr Said was in charge of the OCRB.[3093]

1118. The Chamber notes that several victims who were detained at the OCRB during the period relevant to the charges, and relatives thereof, described individuals, who do not match Mr Said's description, as being in charge of the OCRB.[3094] The Chamber does not

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[3089] P-0338: T-017, pp. 64-65.

[3090] As to the Defence's suggestion that Benjamin Mallo 'only described Mr Said as the "theoretical head of the OCRB",' (*see* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 630), the Chamber notes that Benjamin Mallo affirmed that Colonel Said was in charge of the OCRB. *See* P-0338: T-018, p. 3. *See also* below paras 1147-1149.

[3091] [REDACTED]. *Contra* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 631. [REDACTED] noted that a Seleka named *S'en fout la mort* was above Said and Tahir but did not know what role he had at the OCRB. The witness was also unsure whether Tahir was Said's deputy or at the same hierarchical level. Noting that [REDACTED] was generally unsure about the hierarchy of the Seleka, the Chamber does not consider the witness's evidence regarding *S'en fout la mort's* position, which is not corroborated by any other witnesses, to be reliable. *See* [REDACTED]. In respect of [REDACTED]'s evidence regarding Tahir's position, the Chamber has analysed [REDACTED]'s evidence regarding his position below in conjunction with the evidence of other witnesses: *see* below paras 1160-1161.

[3092] P-0787: CAR-OTP-2036-0410, at 0417-0418, 0426, paras 37, 41, 75; P-0787: T-038, p. 91. *See also* addendum to P-0787's prior recorded testimony, CAR-OTP-00000594, at 000006 in which Jean-Claude Sophil stated that the Seleka only listened to their chief Mahamat Said and Tahir.

[3093] P-1429: CAR-OTP-2049-0166, at 0174, para. 48; addendum to P-1429's prior recorded testimony, CAR-OTP-00000590, at 000002 (P-1429 was detained at the OCRB from [REDACTED] July 2013 for approximately [REDACTED] days); *see also* below para. 1322; P-2400: CAR-OTP-2104-0424, at 0433-434, paras 43, 49; P-2400: T-030, p. 36 (P-2400 was detained at the OCRB from around [REDACTED] August 2013 to around [REDACTED] August 2013); *see also* below paras 1528-1546; P-0547: T-013, pp. 32-33 (P-0547 was detained at the OCRB from around 21 August 2013 to around 31 August 2013); *see* below paras 1470-1471. *Contra* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 363.

[3094] *See* P-2337: CAR-OTP-2104-0411, at 0417, para. 32; P-1180: CAR-OTP-2043-0483, at 0505, para. 162. P-1180 stated that it was 'difficult to look at somebody straight in the eyes' and he 'could not identify anyone at all': P-1180: T-068, pp. 58-60. P-0481: T-072, pp. 27, 45; P-0481: T-073, pp. 54-55. *See also* the discussion of P-2692's description of an 'OCRB Colonel' who he stated was in charge of the OCRB as set out below in paras 1232-1236. The Defence submits that P-1289 and P-0481 make reference to Mazangue being in charge of the OCRB (*see* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 632). However, the Chamber notes that this submission takes the evidence of these witnesses out of context. P-0481 states that Mazangue was just a 'figurehead' (*see* P-0481: T-072, p. 28) and describes a different person as being in charge of the OCRB (*see* P-0481: T-073, pp. 54-55). Similarly, although P-1289 states that Mazangue was a 'OCRB Director' and had been in charge of the OCRB during Bozizé's regime (*see* P-1289: CAR-OTP-2053-0359, at 0369, para. 59), later in his evidence he describes a Seleka commander as being 'really in charge'(*see* P-1289: CAR-OTP-2053-0359, at 0371, para. 71; *see* below paras 1194-1195). The Defence also makes reference to the prior recorded testimony of P-2519, alleging that he gives evidence that individuals named [REDACTED] were in charge of the OCRB (*see* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 632). The Chamber notes that, while these individuals are mentioned in his evidence, nowhere in his statement does he say that these individuals were in charge of the

consider these witnesses to be reliable on these points as either their bases of knowledge for determining that these individuals were in charge was unclear or weak.[3095] In any event, the Chamber recalls that the evidence of these witnesses is contradicted by the consistent evidence of Seleka (insider) and police witnesses, who the Chamber considers to have had a better basis of knowledge regarding the hierarchy of the OCRB.

c) Mr Said's functions at the OCRB

1119. In the Confirmation of Charges Decision, the Pre-Trial Chamber set out five actions which are alleged to constitute Mr Said's essential contribution to the common plan: 'a. [a]rresting and detaining, perceived BOZIZE supporters at the OCRB— including the detention of victims in an underground cell situated by his office in the OCRB; b. [i]nstructing OCRB-Seleka to mistreat detainees who allegedly supported Mr BOZIZE, including by tying them up using the painful *arbatachar* method; c. [s]upplying the OCRB-Seleka with weapons, food, uniforms, and ID cards; d. [i]nterrogating detainees violently and supporting such interrogation methods by OCRB-Seleka; and e. [o]verseeing the overall functioning of the OCRB detention centre, including the detention conditions, by giving instructions and orders to the OCRB-Seleka, deciding who would get access to the judiciary and by reporting to Mr ADAM.'[3096]

1120. The Chamber has structured its analysis of the evidence under different headings which best reflect the evidence it received. This notwithstanding, the Chamber has ensured that

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OCRB and indeed P-2519 stated that he did 'not know who the overall chief at the OCRB was': *see* P-2519: CAR-OTP-2127-9471, at 9479, para. 54.

[3095] The Chamber also carefully assessed the evidence of witnesses who identified someone other than Mr Said as being in charge of the OCRB and notes the following. In respect of P-2337, he only identified the individual he described as the OCRB commander because [REDACTED] had 'pointed' to him. However, P-2337 stated that [REDACTED] never mentioned his name and P-2337 appears to have never interacted or spoken with the commander that was pointed out to him (P-2337: CAR-OTP-2104-0411, at 0417, para. 32). In respect of P-1180, he did not explain how he knew the person he identified was the person in charge of the OCRB (P-1180: CAR-OTP-2043-0483, at 0505, para. 162) and in his oral testimony stated he could not identify anyone and found it difficult to look at people straight in the eyes (P-1180: T-068, pp. 58-60). In respect of P-0481, he stated that an individual named Said [REDACTED] was a leader in the Seleka, but did not specify that he was in charge of the OCRB and provided a limited explanation as to how he knew he was in command (P-0481: T-072, pp. 27, 45; P-0481: T-073, pp. 54-55). In respect of P-2692, as set out in its evidentiary analysis for Incident C below, the Chamber was unable to determine that the individual he describes as being in charge of the OCRB was Mr Said. In any event, the Chamber notes that P-2692 does not explain how he knew that this colonel was in charge of the OCRB (*see* below paras 1232-1236). The Chamber also notes that P-1289 describes a Seleka Colonel who was in charge of the OCRB (P-1289: CAR-OTP-2053-0359, at 0371, para. 71). As discussed in the evidentiary analysis below for Incident A, P-1289's evidence was insufficient for the Chamber to conclusively determine that the individual he described was indeed Mr Said: *see* below paras 1194-1195. *Contra* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 632.

[3096] Confirmation of Charges Decision, ICC-01/14-01/21-218-Red, pp. 58-59, para. 34.

its factual findings regarding Mr Said's functions at the OCRB have not exceeded the facts and circumstances described in the charges.

d) Issuing orders regarding detainees and their detention and controlling access to cells at the OCRB

1121. The Chamber notes that the Defence accepts that Mr Said supervised the management of cells.[3097] [REDACTED] testified that when prisoners were brought in to the OCRB, Colonel Said had the 'last word on their fate'.[3098] He explained that Colonel Said could ask the Seleka to beat up the prisoner[3099] or place them in a cell, such as the underground cell.[3100] [REDACTED] testified that Mr Said gave orders and decided whether to imprison someone or if they had to be released.[3101] [REDACTED] testified that, when prisoners were registered, the information was provided to Colonel Said.[3102]

1122. [REDACTED] further expanded on Mr Said's role in this regard. [REDACTED] testified that when Mr Said arrived in the morning he informed himself as to who was in the cells.[3103] [REDACTED] stated that if there were new detainees, Mr Said asked to see them.[3104] [REDACTED] testified that when Mr Said was present at the OCRB, he had to be told and give his agreement before a prisoner could be put in a cell, and he had to be notified if a prisoner was to be released.[3105] [REDACTED] explained that Yaya gave the relevant orders regarding the cells in case of Mr Said's absence.[3106]

1123. [REDACTED], when prisoners were released, [REDACTED] would issue a paper that

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[3097] Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 363.
[3098] [REDACTED]. *See also* [REDACTED].
[3099] *See* below paras 1131-1134 for further discussion on Mr Said's involvement in the mistreatment of detainees.
[3100] [REDACTED]. *See also* [REDACTED].
[3101] [REDACTED]. [REDACTED] gave some specific examples of Colonel Said giving orders and exercising his authority, such as [REDACTED], sending Seleka to guard another administrative building and granting permission for [REDACTED] to leave the OCRB to go home. *See* [REDACTED]. [REDACTED] testified that Mr Said decided which prisoners would be placed in the underground cell: [REDACTED]. The Chamber also notes its findings below on Incident G that Mr Said ordered the OCRB Seleka not to let P-2607 and his family into the OCRB (*see* above para. 953). *Contra* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 628.
[3102] [REDACTED]. [REDACTED]'s evidence in this respect corroborates that of [REDACTED], who indicated that [REDACTED]. [REDACTED] further testified that Nouradine Adam would come and speak to Colonel Mahamat Said when someone had been arrested by Damboucha or Mahamat Sallet because Mr Said was the commander of the OCRB. *See* evidentiary analysis below regarding the roles of Mahamat Sallet Adoum Kette and Damboucha: *see* below paras 1154-1156.
[3103] [REDACTED]. [REDACTED] Colonel Mahamat Said asked to see an incident logbook where, *inter alia*, new detainees were registered: [REDACTED].
[3104] [REDACTED].
[3105] [REDACTED].
[3106] [REDACTED].

Colonel Said would sign.[3107] [REDACTED] explained that the Seleka at the OCRB would come to Mr Said's desk in order for him to decide whether the person was to be freed or not, noting that Mr Said would instruct [REDACTED] to write a note if the person was to be released.[3108]

1124. Several witnesses who had been detained at the OCRB also gave evidence that Mr Said gave orders for detainees to be taken to cells.[3109] In relation to the underground cell specifically, [REDACTED] testified that those detained in the underground cell were 'under the direct orders' of Mr Said and guarded by Noiro Nassir Abderraman (hereinafter: 'Noiro').[3110] The Chamber further notes its findings on Incident O that Mr Said ordered that P-0547 be returned to the underground cell.[3111]

1125. The Chamber received evidence from multiple witnesses regarding Mr Said's control over access to the cells at the OCRB. [REDACTED], apart from the Seleka jailer designated on the daily duty sheet and the duty officer, [REDACTED] could only give the key to the outside cells to Mr Said or Yaya.[3112] Benjamin Mallo testified that, although he had a set of keys to the cells, he was not entitled to open the cells.[3113] Benjamin Mallo stated that the cells were monitored by the Seleka, noting that Mr Said appointed Seleka members to guard the cells (called 'jailers') on a daily basis and if Mr Said wanted someone brought, then he called the appointed Seleka member to bring the detainee out of the cell or put them back in.[3114] Benjamin Mallo mentioned Colonel Said's control over the cells at several points during his testimony, explaining that Colonel Said's permission was required to get someone out of a cell and when Benjamin

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[3107] [REDACTED]. *See also* [REDACTED]. P-2400 stated that Colonel Mahamat Said wrote a note stating 'Release of [REDACTED]', signed with Mahamat Said's name, but that he (P-2400) had since lost the note: P-2400: CAR-OTP-2104-0424, at 0437, para. 60. As noted above, the Chamber notes that a number of release notes contained Mr Said's initials: para. 1116, n. 3086.

[3108] [REDACTED]. [REDACTED] Mr Said's name and phone number on the release document: [REDACTED]. The Chamber also notes its evidentiary analysis and factual findings in respect of Incident Q below, where it found that Mr Said was involved in the questioning of P-2241 and was awaiting a decision [REDACTED] about whether or not she was to be released. *See* above para. 1063 and below para. 1556 (evidentiary analysis).

[3109] The Chamber notes its evidentiary analysis and factual findings in relation to Incidents M and Q below, where it found that Mr Said ordered a number of detainees to be placed in the underground cell. *See* above paras 1001, 1045, 1048 and below paras 1396-1398, 1533-1535 (evidentiary analysis).

[3110] [REDACTED]. *See also* [REDACTED]. *See also* below paras 1171-1172.

[3111] *See* above para. 1024 and below paras 1470-1471 (evidentiary analysis).

[3112] [REDACTED].

[3113] P-0338: T-018, pp. 23-24. *See also* P-0338: T-018, p. 19.

[3114] P-0338: T-018, p. 24. The Chamber also notes the evidence of [REDACTED] who gave evidence about Mr Said and others calling the head of the jail to open the cells to remove prisoners to be put in Mahamat Sallet and Damboucha's vehicle and driven away from the OCRB. *See* below para. 1155.

Mallo would call the prosecutor it was Colonel Said who would open the cell.[3115]

1126. In respect of the underground cell, Benjamin Mallo recounted an instance where he asked Mr Said to see those who were in the underground cell but Mr Said told him that 'they were Djotodia's prisoners and seeing them was 'out of the question'.[3116] [REDACTED] similarly testified in this regard that no one was allowed to enter Mr Said's office (in which the underground cell was located)[3117] without permission.[3118]

e) Supplying weapons, uniforms, food, and badges to the OCRB Seleka

1127. The Chamber notes that the Defence accepts that Mr Said was the resource person concerning supplies, planning shifts and managing the personnel.[3119] [REDACTED] testified that the weapons at the OCRB were kept in a storage room to which Mahamat Said held the key and recalled that if Mahamat Said saw Seleka members with a grenade or military things, he would confiscate them and put them in the weapons storage room.[3120] Similarly, [REDACTED] stated that when military outfits were made available to the Seleka at the OCRB, it was Colonel Mahamat Said who handed them out.[3121]

1128. Several witnesses testified that Colonel Mahamat Said was responsible for feeding the Seleka at the OCRB,[3122] with Benjamin Mallo stating that Nouradine Adam would ultimately provide the food.[3123] A Seleka member stated that within the Seleka they would only obey their own colonel because that was the person who would supply the weapons, ammunition and food.[3124] He further testified that although the Seleka at the OCRB were not paid,[3125] those who were on duty or carrying out patrols were provided with money for expenses from the duty officer, with the permission of Mr Said.[3126] Another Seleka member similarly testified that he was given some money by Mahamat

[3115] P-0338: T-018, pp. 44-45; P-0338: T-018, pp. 47-48. *See also* P-0338: T-018, p. 18.
[3116] P-0338: T-018, pp. 13-15. Benjamin Mallo testified that after Mr Said told him this, later on, specifically the third time he requested to see the detainees, Said stated he would see what he could do: P-0338: T-018, p. 15.
[3117] *See* above paras 910, 1094.
[3118] [REDACTED].
[3119] Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 363.
[3120] [REDACTED].
[3121] [REDACTED].
[3122] [REDACTED]. [REDACTED] testified that Said and Tahir were in charge of providing food to the OCRB Seleka: [REDACTED].
[3123] P-0338: T-017, pp. 73-74; P-0338: T-018, p. 3; P-0338: T-019, pp. 49-50. *See also* [REDACTED].
[3124] [REDACTED]. *See also* above paras 644, 785.
[3125] [REDACTED]. [REDACTED] explained that before the Seleka's departure from the OCRB, Colonel Said gave 50,000 CFA, which was allocated to each Seleka member to allow them to find housing and to get what they needed in order to be able to vacate the OCRB premises: [REDACTED].
[3126] [REDACTED].

Said after participating in an overnight patrol.[3127]

1129. In respect of food for those detained at the OCRB, Benjamin Mallo stated that if families brought food and the Seleka agreed to take it to the prisoners, then Mr Said would send the food through the day jailer, who would open the cell and give food to the prisoners.[3128]

f) Mistreatment of detainees at the OCRB

1130. The Chamber received evidence from Seleka insiders, police and detainees at the OCRB that Colonel Said ordered the mistreatment of detainees. [REDACTED] stated that Colonel Said had to give the order or first approve beatings at the OCRB, noting that if Yaya ordered beatings it was always on the instructions of Colonel Said.[3129] [REDACTED] and [REDACTED] also provided evidence that prisoners were routinely beaten at the OCRB on the orders of Mr Said.[3130] P-2400 testified that he saw Mr Said ordering the Seleka to tie and beat a newly arrived prisoner, and the Seleka followed his orders and tied the prisoner's hands in front of his chest and legs and started beating him from both sides with sticks.[3131]

1131. There is also evidence before the Chamber that Mr Said was present when detainees were being beaten. Specifically, the Chamber notes its findings below on Incident N that Mr Said was present, along with Nouradine Adam and Rakiss, during the beating of an individual referred to as the 'baker',[3132] as well as its findings below on Incident O that Mr Said was present when a man was being beaten and doused with water to such an extent that he defecated on himself.[3133] [REDACTED] also testified that Mr Said observed prisoners being beaten,[3134] and Jean-Claude Sophil testified that Mr Said and Tahir were often present when the Seleka were beating detainees and it would happen under their instructions.[3135]

1132. Benjamin Mallo and [REDACTED] also gave evidence that they informed Mr Said that detainees were being mistreated at the OCRB. Benjamin Mallo, who testified that he

[3127] [REDACTED].
[3128] P-0338: T-018, pp. 26-27.
[3129] [REDACTED].
[3130] [REDACTED]; [REDACTED].
[3131] *See* below para. 1559.
[3132] *See* below paras 1433-1436.
[3133] *See* below para. 1479.
[3134] [REDACTED]; [REDACTED].
[3135] P-0787: CAR-OTP-2036-0410, at 0431, para. 98.

often witnessed individuals being mistreated and tied *arbatachar* by the OCRB Seleka,[3136] recalled that he often raised the issue with Mr Said.[3137] Benjamin Mallo stated that Mr Said responded that the individuals being mistreated were thieves and this was the way to treat them so that they would tell the truth quickly and get what they deserved.[3138] [REDACTED] explained that Mr Said was aware of prisoners in the underground cell as Mr Said and Tahir were both present at the OCRB one day when prisoners were brought out of the underground cell and [REDACTED] informed them of their condition, but they did not say anything.[3139]

1133. In respect of sanitary conditions, Benjamin Mallo testified that every morning Mr Said ordered that the cell doors be opened and two prisoners would empty the buckets filled with excrement and urine into a hole behind the cells.[3140] The Chamber also notes the evidence that the underground cell was in Mr Said's office,[3141] as well as its findings in Incident Q and P-2400's evidence regarding the conditions of the underground cell and that Mr Said ordered that he (P-2400) be detained there.[3142]

g) Extorting money for the release of detainees

1134. The Chamber received evidence that Mr Said was involved in extorting money for the release of detainees. Benjamin Mallo recounted that parents came to the OCRB to look for their children and sometimes a 'ransom' was requested.[3143] Benjamin Mallo testified that there was a recurring practice at the OCRB whereby Mr Said was made aware that a person had been detained, the parents of the detainee would come to the OCRB and Mr Said would give instructions so that 'business is resolved'.[3144] Benjamin Mallo explained that if the parents of the detainee had to pay a 'lump sum' then it was given to Mr Said or Yaya.[3145] [REDACTED] testified that every day relatives of prisoners came to see Mr Said or Tahir to pay money to have prisoners freed.[3146] [REDACTED] also testified that prisoners or their families would pay 'fees' in order to be released, noting

[3136] P-0338: T-018, pp. 28-29.
[3137] P-0338: T-018, pp. 28-29.
[3138] P-0338: T-018, pp. 28-29.
[3139] [REDACTED].
[3140] P-0338: T-018, p. 27.
[3141] *See* above para. 1094.
[3142] *See* above paras 1048-1050 and below paras 1533, 1535, 1538-1543 (evidentiary analysis).
[3143] P-0338: T-018, pp. 59-60.
[3144] P-0338: T-018, p. 60.
[3145] P-0338: T-018, p. 60.
[3146] [REDACTED].

that Mr Said had to be informed of the agreed amount before the payment was made.[3147]

1135. The Chamber also received evidence from victims that they paid money to Mr Said in order to be released.[3148]

h) Interventions

1136. Several witnesses testified that Mr Said was involved in Seleka interventions launched from the OCRB. [REDACTED] specifically noted that Mr Said decided on which interventions were to be carried out[3149] and gave direct orders about where the OCRB Seleka were to go and what they were to do.[3150] [REDACTED] testified that he encountered a disarmament team under the command of Mahamat Said which had been deployed to disarm Seleka who were carrying out abuses.[3151] [REDACTED] testified that Colonel Mahamat Said established the planning list/programme for patrols, noting that interventions were regular at that time.[3152] [REDACTED] testified that Mr Said deployed Seleka to the field to deal with abuses in the neighbourhood, and sometimes joined them in the field.[3153]

3. Role of other persons alleged to have committed the crimes with Mr Said

1137. In the Confirmation of Charges Decision, the Pre-Trial Chamber lists several individuals, along with Mr Said, who comprise the alleged co-perpetrators in the present case.[3154] These alleged co-perpetrators broadly fall into two categories: (i) Seleka who had wider roles within the security apparatus relevant to the functioning of the OCRB, including Nouradine Adam, Adoum Rakiss, Mahamat Sallet Adoum Kette, Damboucha and Fadoul

[3147] [REDACTED].
[3148] The Chamber refers to its evidentiary analysis and factual findings below in relation to Incident Q and Mr Said's involvement in extorting money for the release of P-2400 and P-2241. *See* above paras 1053, 1065 and below paras 1560, 1562 (evidentiary analysis).
[3149] [REDACTED]. The Chamber also notes its evidentiary analysis and factual findings below in respect of Incident J that Mr Said ordered an OCRB Seleka member to lead a team to 'arrest' a FACA member and retrieve him 'dead or alive', which resulted in P-2931 and another man being brought to the OCRB and handed over to Mr Said, who also received an oral report on the intervention. *See* above paras 978, 982 and below paras 1339, 1342.
[3150] [REDACTED].
[3151] [REDACTED].
[3152] [REDACTED].
[3153] [REDACTED]. The Chamber also recalls its evidentiary analysis and factual findings for Incident N where Mr Said, along with other OCRB Seleka members, were present during the operation and arrest of the 'baker': *see* above para. 1009 and below paras 1430-1431 (evidentiary analysis).
[3154] There is evidence that other named Seleka individuals were present but not based at the OCRB, and in some instances engaged in the detention and mistreatment of individuals there (for example, General Arda). However, given that the Prosecution has focused on the specific named individuals, who were confirmed as co-perpetrators by the Pre-Trial Chamber, the Chamber has confined its analysis to these named co-perpetrators.

Al Bachar; and (ii) Seleka who were stationed at the OCRB and were under the command of Mr Said, including Tahir Babikir (Seleka Colonel), Yaya Soumayele aka Soumaine (Seleka Commander) and Noiro aka Nassir Abderraman (OCRB Seleka).

1138. The following evidentiary analysis discusses these two categories in turn, specifically analysing these individuals' roles within the security apparatus generally and in relation to the OCRB, as well as their relationships to Mr Said.

a) Individuals who had roles within the wider Seleka structure

i. Nouradine Adam (Minister of Public Security)

1139. The Chamber received evidence that the OCRB fell under the remit of Nouradine Adam as the Minister of Public Security and he had overarching authority over the OCRB.[3155] Benjamin Mallo testified that the OCRB was Nouradine Adam's base and that his men were based there,[3156] with a Seleka member testifying that, in his view, Nouradine Adam was responsible for the people who were at the OCRB.[3157]

1140. Multiple witnesses gave evidence regarding Mr Said's relationship with Nouradine Adam. [REDACTED] Nouradine Adam appointed Mr Said to the OCRB.[3158] [REDACTED] and P-1004 further testified that Mr Said reported to Nouradine Adam.[3159]

1141. According to Benjamin Mallo, the relationship between Nouradine Adam and Mr Said was one of 'an employee and a boss' and all instructions came from Nouradine Adam.[3160] Benjamin Mallo stated that he was present when Nouradine Adam gave instructions to Mr Said which concerned him (Benjamin Mallo), such as requesting that Mr Said lend men for a mission, but if the matter did not concern Benjamin Mallo and related only to the Seleka, he would not be present.[3161] Benjamin Mallo recalled that Nouradine Adam would call him directly or get Mr Said to call him in order to pass on instructions to Benjamin Mallo.[3162] A Seleka member testified that when Colonel Mahamat Said

[3155] P-0435: CAR-OTP-2017-0036, at 0040, paras 21-23; P-0338, T-017, p. 64; P-2105: T-024, pp. 7-8; P-2563: T-115, pp. 20-21. *See also* P-2563: T-113, pp. 41-42; P-1737: T-044, p. 30; P-0349: CAR-OTP-2075-0812, at 0822-0823, para. 54; [REDACTED].
[3156] P-0338: T-017, pp. 64, 72.
[3157] [REDACTED]. *See also* [REDACTED].
[3158] [REDACTED].
[3159] [REDACTED]; P-1004: CAR-OTP-2043-0536, at 0541, para. 33. *See also* [REDACTED]; P-0338: T-017, p. 63; [REDACTED].
[3160] P-0338: T-017, p. 74.
[3161] P-0338: T-017, pp. 72-75. *See also* P-0338: T-019, p. 56.
[3162] P-0338: T-017, p. 76. *See also* P-0338: T-019, p. 56.

assigned him to a post it was following directions given by Nouradine Adam.[3163] The Chamber also received evidence that Nouradine Adam, as Minister of Public Security, was responsible for issuing badges for the Seleka, including badges containing Mr Said's initials 'CMSAK'.[3164]

1142. The Chamber considers the fact that the OCRB was under the overall authority of Nouradine Adam and that he issued orders to Mr Said is not inconsistent with the evidence that Mr Said was in charge of the OCRB. In this regard, the Chamber recalls its earlier evidentiary analysis in that witnesses testified that Nouradine Adam appointed Mr Said to be in charge of the OCRB,[3165] that he was the top ranking official there[3166] and all the Seleka stationed at the OCRB were under his command.[3167] Similarly, the Chamber notes that there is no evidence that he received specific instructions from Nouradine Adam on every aspect of his management and control of the premises, the Seleka members under his authority, and the detainees, whom he personally supervised and had control over.

1143. In respect of Nouradine Adam's presence at the OCRB, the Chamber received evidence that Nouradine Adam regularly visited the OCRB,[3168] and gave orders to those stationed there.[3169]

1144. Witnesses testified that Nouradine Adam was present on a number of occasions while prisoners at the OCRB were being beaten,[3170] and interrogated detainees.[3171] For

[3163] [REDACTED].
[3164] [REDACTED]. *See also* above para. 1116 regarding the understanding of 'CMSAK'; [REDACTED].
[3165] *See* above para. 1112.
[3166] *See* above paras 1112-1115, 1117-1118
[3167] *See* above paras 1113-1115, 1117.
[3168] P-0338: T-017, p. 72; P-0338: T-019, pp. 49-50; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; P-0787: CAR-OTP-2036-0410, at 0422, para. 55. *See also* [REDACTED]. The Chamber notes that [REDACTED] appeared unsure as to how often Nouradine Adam would visit the OCRB but confirmed that he would visit. The Chamber also received evidence from OCRB detainees that Nouradine Adam was present at the OCRB. *See* [REDACTED]; [REDACTED]. *See also* below para. 1454.
[3169] [REDACTED]; [REDACTED]; P-0338: T-017, p. 73. *See also* [REDACTED]; [REDACTED].
[3170] P-1004: CAR-OTP-2043-0536, at 0542, para. 40. The Chamber also notes its evidentiary analysis and factual findings regarding Nouradine Adam's involvement in the beating of the 'baker' in Incident N. *See* above para. 1010 and below para. 1437. Jean-Claude Sophil also testified that Nouradine Adam brought prisoners in his vehicle to the OCRB who were tied up in the *arbatachar* manner: *see* P-0787: CAR-OTP-2036-0410, at 0422, para. 55.
[3171] The Chamber notes its evidentiary analysis and factual findings below regarding Nouradine Adam's involvement in the questioning of P-1289 in Incident A and P-0481 in Incident B. *See* above paras 935, 940 and below paras 1201, 1217-1219. *See also* P-3047: CAR-OTP-2130-6904, at 6913, para. 46.

example, P-3047 testified that Nouradine Adam [REDACTED].[3172]

1145. In respect of the provision of food at the OCRB, Benjamin Mallo testified that food rations would be provided by Nouradine Adam and when they were not delivered to the OCRB then Colonel Said would send a Seleka member to go and pick them up from Camp de Roux.[3173]

ii. Adoum Rakiss (Deputy Director General of the Police)

1146. The Chamber recalls that on 3 June 2013, Adoum Rakiss, a Seleka General, was appointed as Deputy Director General of the police by Michel Djotodia.[3174] The Chamber further recalls that it received evidence that Nouradine Adam was at the top of the chain of command of the police, and 'controlled absolutely everything, together with his deputy, Rakis[s]'.[3175] Several witnesses identified Adoum Rakiss in a number of photographs shown to them in court.[3176]

1147. In respect of Adoum Rakiss's role vis-à-vis the OCRB, Benjamin Mallo and Jean-Jacques Demafouth testified that Rakiss coordinated and controlled all the police services,[3177] with Benjamin Mallo indicating that he was, in theory, the 'hierarchical

[3172] P-3047: CAR-OTP-2130-6904, at 6913, para. 46.
[3173] P-0338: T-017, pp. 73-74; P-0338: T-018, p. 3; P-0338: T-019, pp. 49-50. *See also* [REDACTED]. *See* above paras 916, 920, 1129.
[3174] P-0338: T-018, p. 34; P-1420: CAR-OTP-2040-0811, at 0835, para. 150; P-2328: T-130, p. 29; P-1004: CAR-OTP-2043-0536, at 0548, para. 92. The Chamber also received two presidential orders pertaining to Rakiss' appointment. A presidential order dated 29 May 2013 appointing Adoum Rakiss as Director General and a presidential order dated 3 June 2013 changing the title of the post to Deputy Director General: presidential orders, CAR-OTP-2004-1385, at 1444, CAR-OTP-2004-1926, at 1927; c*ertificat de prise de service* (certificate), CAR-OTP-2034-2704. *See also* addendum to P-0435's prior recorded testimony, CAR-OTP-00000620, at 000003-000004, referring to presidential order, CAR-OTP-2004-1926, at 1926-1927. Witnesses also recall him having a moustache and have identified him in photographs with Michel Djotodia: P-1970: CAR-OTP-2087-9396, at 9401, para. 20; P-1737: T-044, pp. 64-66, referring to photograph, CAR-OTP-2069-3225 ([REDACTED]); P-0338: T-018, pp. 52-53, referring to photograph, CAR-OTP-2094-1927 (annotated version, CAR-REG-0002-0030); P-2105: T-024, p. 61, referring to photograph, CAR-OTP-2069-3225 (annotated version, CAR-REG-0002-0041). *See* above paras 801-802.
[3175] P-1970: CAR-OTP-2087-9396, at 9399, 9401, 9406, paras 13, 20, 41. The Chamber also recalls its previous factual findings that although Henri Wanzet Linguissara continued as Director General of the Central African Police during Michel Djotodia's presidency, it was Nouradine Adam and Adoum Rakiss who controlled the activities of the police and the gendarmerie. *See* above para. 648.
[3176] P-0338: T-018, pp. 52-53, referring to photograph, CAR-OTP-2094-1927 (annotated version, CAR-REG-0002-0030); P-2105: T-024, pp. 64-65, 67-68, referring to photographs, CAR-OTP-2069-3226 ([REDACTED]), CAR-OTP-2069-3245 ([REDACTED]); P-1737: T-044, pp. 66-67 referring to photograph, CAR-OTP-2069-3226 ([REDACTED]).
[3177] P-2328: T-130, p. 29; P-0338: T-018, p. 34.

head' of the OCRB.[3178] Jean-Claude Sophil also testified that Adoum Rakiss had a 'supervisory role' at the OCRB.[3179]

1148. The Chamber received inconsistent evidence regarding whether Adoum Rakiss gave orders to Mr Said. Benjamin Mallo testified that Adoum Rakiss was not responsible for the operations of the OCRB and while he [Rakiss] would put questions to Colonel Said to make sure everything was in good order, he did not have direct authority to give instructions to Colonel Said.[3180] Jean-Claude Sophil testified that, as Adoum Rakiss was a general and Said was a colonel, Mr Said would do what he said and respected him.[3181] The Chamber does not consider the issue of whether Mr Said received instructions from Adoum Rakiss or not to be significant in light of the consistent evidence from both Benjamin Mallo[3182] and Jean-Claude Sophil,[3183] as well as other witnesses,[3184] that Mr Said was in charge of the OCRB.

1149. On Adoum Rakiss' involvement in the functioning of the OCRB, the Chamber notes its evidentiary analysis and factual findings for Incident N with respect to Adoum Rakiss ordering the operation and arrest of the 'baker'.[3185] In addition, Jean-Claude Sophil testified that Adoum Rakiss would bring prisoners to the OCRB compound and would use money from Michel Djotodia to get people in Bangui to tell him where 'members of Bozizé['s] military' were.[3186]

1150. Benjamin Mallo recalled that during a meeting regarding the Seleka's departure from the OCRB, Michel Djotodia gave Adoum Rakiss money to give to the Seleka.[3187] He testified

[3178] P-0338: T-018, p. 34. *See also* P-2328: CAR-OTP-2099-0165, at 0222, para. 304, draft translation: CAR-OTP-00000147, at 000058, para. 304. Jean-Jacques Demafouth stated that the OCRB was 'under the control' of Rakiss. The Chamber observes that Jean-Jacques Demafouth indicated that he did not have 'precise information on this subject' and, given his political position, considers that he had a more limited basis of knowledge regarding the inner workings of the OCRB in comparison with Benjamin Mallo, who was posted there. Accordingly, the Chamber determines that Jean-Jacques Demafouth's evidence is limited insofar as he was only in a position to know the *de jure* role of Adoum Rakiss vis-à-vis the OCRB.
[3179] P-0787: CAR-OTP-2036-0410, at 0424, para. 66.
[3180] P-0338: T-019, p. 79. *See also* P-0338: T-018, pp. 34-35.
[3181] P-0787: CAR-OTP-2036-0410, at 0424, para. 66.
[3182] *See* above para. 1117.
[3183] *See* above para. 1117.
[3184] *See* above paras 1112-1118.
[3185] *See* above paras 1009-1010 and below paras 1430-1431, 1436. The Chamber also recalls that Jean-Jacques Demafouth testified that Adoum Rakiss was involved in carrying out missions in Bangui with officials from the OCRB. *See* P-2328: T-130, p. 29.
[3186] P-0787: CAR-OTP-2036-0410, at 0424-0425, paras 66, 68. Jean-Claude Sophil also recounted an incident where Rakiss brought two young people to the OCRB: *see* P-0787: CAR-OTP-2036-0410, at 0425, paras 69-72.
[3187] P-0338: T-018, pp. 31-32.

that Colonel Said was also present and advocated that he (Benjamin Mallo) and other police staff should be given a share of the money, which Rakiss ultimately did.[3188]

iii. Mahamat Sallet Adoum Kette[3189] and Hissene aka Isseine[3190] Damboucha (Military Police)

1151. The Chamber recalls that the military police was set up a few weeks after the Seleka took control of the country.[3191] The Chamber further recalls that the military police's instructions ultimately came from Nouradine Adam[3192] and that it 'had the dual purpose of dealing with the abuses' committed by the various Seleka groups and conducting operations on Nouradine Adams's instructions.[3193] The military police was dismantled approximately a month after its establishment, at which point its responsibilities were assigned to leaders in different locations and mixed police/Seleka patrols were implemented.[3194]

1152. The Chamber received evidence that Mahamat Sallet, a Seleka Colonel,[3195] commanded the military police[3196] and Damboucha, a Seleka Colonel,[3197] led and coordinated the patrols.[3198] P-2105 and P-1737 identified Mahamat Sallet in photographs which were shown to them in court.[3199]

[3188] P-0338: T-018, p. 32.
[3189] The Chamber notes that the spelling of Sallet varies throughout the evidence (for example, 'Saleh' is also used). The Chamber has ensured that, in its analysis of the evidence, references to Sallet or Saleh relate to Mahamat Sallet Adoum Kette. P-1167 testified that his full name was Mahamat Sallet Adoum Kette: P-1167: T-035, p. 10.
[3190] In the Confirmation Decision Damboucha's first name is spelt 'Hissene' (*see* Confirmation of Charges Decision, ICC-01/14-01/21-218-Red, p. 58, para. 33). In the Prosecution's closing brief, the Prosecution states that Damboucha's first name is 'Hissene or Issene' (*see* Prosecution Closing Brief, ICC-01/14-01/21-1027-Red, para. 111). The Chamber notes that, in a list of Seleka stationed at CEDAD, Damboucha's first name is spelt 'Isseine' (*see* list of Seleka at CEDAD, CAR-OTP-2023-0646, at 0646). The above notwithstanding, the Chamber observes that the witnesses simply refer to Damboucha by his surname, accordingly the Chamber will also refer to him by his surname.
[3191] *See* above para. 655.
[3192] *See* above para. 655.
[3193] *See* above para. 655.
[3194] *See* above para. 655.
[3195] P-1167: T-035, pp. 8-10; P-2105: T-025, pp. 6, 26, 34. [REDACTED] testified that Sallet did not have a function within the Seleka regime, but he could also carry out arrests or interventions on his own behalf and also at the behest of Nouradine: [REDACTED].
[3196] [REDACTED]. *See also* [REDACTED]. [REDACTED]. For a further discussion of photograph, CAR-OTP-2114-0323, *see* below para. 1192, n. [REDACTED].
[3197] P-1167: T-035, p. 9. [REDACTED] stated that Damboucha was a Seleka Colonel who was also working 'under Nouradine, under his orders': [REDACTED].
[3198] P-2563: T-112, p. 40; P-2563: T-113, pp. 5-6. *See also* P-2563: T-113, p. 13; [REDACTED], referring to list of Seleka at CEDAD, CAR-OTP-2023-6046 ([REDACTED]).
[3199] P-2105: T-025, pp. 34-35, referring to photograph, CAR-OTP-2114-0323 ([REDACTED]); P-1737: T-045, pp. 4-5, [REDACTED].

1153. In respect of Mahamat Sallet and Damboucha's role vis-à-vis the OCRB and their relationship with Mr Said, [REDACTED] testified that both Damboucha and Mahamat Sallet were present at the OCRB with Mr Said.[3200] [REDACTED] clarified that Damboucha worked with Colonel Said, but he was not one of the 'OCRB troops and was not assigned to work at the OCRB'.[3201] In respect of Mahamat Sallet, [REDACTED] testified that Mahamat Said worked in collaboration with Sallet and Nouradine Adam.[3202] [REDACTED] stated that Colonel Mahamat Said was under the command of Mahamat Sallet, noting that Sallet gave Mr Said instructions, but he affirmed that Mr Said was in charge of the OCRB and that Sallet generally did not give orders directly to the Seleka.[3203] [REDACTED] further testified that sometimes Mahamat Sallet gave the order to Mr Said to put a particular prisoner in the underground cell, but clarified that Mr Said, as the 'chief of the OCRB', also gave instructions to put people in the underground cell.[3204] The Chamber further recalls its evidentiary analysis and factual findings regarding Mahamat Sallet's involvement in the arrest and mistreatment of P-1289 in Incident A.[3205]

1154. The Chamber also received evidence regarding Mahamat Sallet and Damboucha's roles in bringing detainees to and removing them from the OCRB. In this regard, a Seleka witness testified that Mahamat Sallet and Damboucha repeatedly left in vehicles from the OCRB and returned with prisoners, who would be put into cells in the OCRB compound.[3206] The witness testified that Mahamat Sallet and Damboucha also took prisoners away from the OCRB, referring to four specific incidents of a similar nature and recalling that Mr Said was present at the OCRB for three such incidents and left the OCRB in his vehicle at the same time as Sallet and Damboucha on at least one occasion.[3207] By way of illustration, the witness noted that on one occasion Mahamat Sallet and Damboucha entered the compound, approached Mr Said and Commander Yaya and spoke together, after which they all called the head of the jail who opened the cell, and the prisoners were removed from the cell, put into vehicles and driven away,

[3200] [REDACTED].
[3201] [REDACTED].
[3202] [REDACTED].
[3203] [REDACTED] stated that 'just once' Sallet gathered the Seleka together and gave them instructions to be disciplined and follow orders: [REDACTED]. *See* above para. [REDACTED].
[3204] [REDACTED].
[3205] *See* above paras 933-934 and below paras 1192-1194.
[3206] [REDACTED]. *See also* [REDACTED].
[3207] [REDACTED].

with Mr Said leaving the OCRB in his vehicle at the same time.[3208] The witness specifically recalled that at least two such prisoners who were removed from the OCRB, were tied *arbatachar*.[3209]

1155. A Seleka witness testified that when Nouradine Adam received information that Damboucha or Mahamat Sallet had arrested someone, Nouradine Adam would come and talk to Colonel Mahamat Said about this person because he was the commander of the base.[3210]

1156. Regarding their roles after the Seleka left the OCRB, [REDACTED] testified that Damboucha subsequently worked at CEDAD with Nouradine Adam and Colonel Said.[3211]

iv. Fadoul Al Bachar (Deputy Director General of CEDAD)

1157. P-0349 testified that, following the creation of the Seleka, Fadoul Bachar coordinated the union of the various groups within the Seleka.[3212] The Chamber received evidence that Michel Djotodia appointed Fadoul Haroun Al Bashar as Deputy Director General of CEDAD by presidential order dated 7 June 2013.[3213] [REDACTED] recognised Bachar's name on a list of Seleka at CEDAD and confirmed that in 2013, Bachar, who was close to Nouradine Adam, was in CEDAD with him and would often act as a driver for him.[3214] Bachar was identified by witnesses in a number of photographs.[3215] In respect of Fadoul Bachar's presence at the OCRB, the Chamber notes its evidentiary analysis and factual findings below regarding Bachar's role in the mistreatment of P-0547.[3216]

[3208] [REDACTED].
[3209] [REDACTED].
[3210] [REDACTED].
[3211] [REDACTED], referring to list of Seleka at CEDAD, CAR-OTP-2023-0646, no. 19.
[3212] P-0349: CAR-OTP-2075-0812, at 0824, para. 61.
[3213] Presidential order, dated 7 June 2013, CAR-OTP-2005-0328; P-0349: CAR-OTP-2075-0812, at 0824, para. 61. *See also* P-1004: CAR-OTP-2043-0536, at 0544, para. 58.
[3214] [REDACTED] referring to list of Seleka at CEDAD, CAR-OTP-2023-0646 and photograph CAR-OTP-2069-0671 ([REDACTED]).
[3215] P-1967: CAR-OTP-2069-0498, at 0545-0546, referring to photograph (P7200259), CAR-OTP-2069-0671; P-2105: T-025, p. 37, referring to photograph, CAR-OTP-2069-0671 ([REDACTED]); P-1967: CAR-OTP-2069-0498, at 0576, referring to photograph (P8080331), CAR-OTP-2069-2506; P-1967: CAR-OTP-2069-0498, at 0579, referring to photograph (P8180756), CAR-OTP-2069-2889; P-1967: CAR-OTP-2069-0498, at 0575, referring to photograph (P8010154), CAR-OTP-2069-2329.
[3216] *See* below paras 1012-1013, [REDACTED], 1444, [REDACTED].

b) Individuals who were stationed at the OCRB

1158. The Chamber now turns to its evidentiary analysis regarding the alleged co-perpetrators who were stationed at the OCRB: namely, Tahir Babikir, Yaya Soumayele aka Soumaine and Noiro aka Nassir Abderraman, as well as the OCRB Seleka more generally.

i. Tahir Babikir (Seleka Colonel)

1159. The Chamber received evidence that Colonel Tahir was Colonel Mahamat Said's deputy at the OCRB,[3217] and that he had a security role at the OCRB.[3218]

1160. In respect of Tahir's activities, a Seleka witness testified that Tahir, together with Mahamat Sallet and Damboucha, was amongst a number of teams that kept an eye on the various smaller units at the OCRB.[3219] [REDACTED] stated that Mr Said and Tahir were always in contact, noting that sometimes Mr Said left his office and joined Tahir at Tahir's office outside under a tree.[3220] [REDACTED] recounted that Mr Said and Tahir would often go out in their vehicles with the soldiers to conduct operations.[3221] The Chamber recalls that it also received evidence that Tahir and Mr Said were involved in extorting money from the families of prisoners at the OCRB,[3222] and [REDACTED] testified that Tahir and Mr Said were in charge of providing the Seleka at the OCRB with

[3217] [REDACTED]; P-0338: T-017, pp. 70, 77-79, referring to list of Seleka at the OCRB, CAR-OTP-2082-0458. While [REDACTED] initially could not recall the name of Colonel Mahamat Said's deputy, describing him as 'Colonel Shisha', he subsequently identified Tahir by name as the deputy of Mr Said when shown a list of OCRB Seleka: [REDACTED]; [REDACTED], referring to list of Seleka at the OCRB, CAR-OTP-2082-0458. [REDACTED] stated that 'Shisha' was Tahir's nickname: [REDACTED]. While [REDACTED] was unsure whether Tahir was Said's deputy, or whether they were at the same hierarchical level, [REDACTED] confirmed that Said was the director of the OCRB and that Tahir was also authorised to give orders: [REDACTED]. As to the Defence's suggestion that Benjamin Mallo testified that Tahir was virtually independent, the Chamber recalls that Benjamin Mallo acknowledged that he did not have any oversight over the Seleka's base and considers that Benjamin Mallo was not privy to all the details concerning the daily administration of the OCRB Seleka. *See* P-0338: T-019, p. 10. *Contra* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 630.

[3218] [REDACTED] upon Tahir's arrival at the OCRB, Nouradine Adam presented him to the OCRB as the deputy of Colonel Said and noted that his role was to 'ensure the security of the OCRB': [REDACTED]. *See also* letter from Nouradine Adam, CAR-OTP-2034-4649, which indicates that Tahir was the head of security at the OCRB. [REDACTED].

[3219] [REDACTED]. Jean-Claude Sophil also testified that Tahir was the head of operations at the OCRB and responsible for the compound itself and the cells, under Colonel Mahamat Said who was the most senior Seleka at the OCRB compound: *see* P-0787: CAR-OTP-2036-0410, at 0418, para. 41.

[3220] [REDACTED]. As to the location of Tahir's office at the OCRB, [REDACTED] indicated that when [REDACTED] returned to the OCRB, Tahir was initially installed in Mallo's office, but later settled himself outside under a tree with a table and chair that became his office: [REDACTED]. Benjamin Mallo stated that Tahir did not have an office at the OCRB and had set up a tent outside: P-0338: T-017, p. 71.

[3221] [REDACTED].

[3222] *See* above para. 1135.

food.[3223]

1161. The Chamber also received evidence from a number of witnesses who were detained at the OCRB regarding Tahir's involvement in the detention and mistreatment of detainees at the OCRB.[3224]

1162. As to Tahir's arrival at the OCRB, Benjamin Mallo testified that Tahir came two days after the Monday on which Benjamin Mallo arrived at the OCRB in April 2013.[3225] [REDACTED] when [REDACTED] arrived at the OCRB a few weeks after the Seleka takeover of Bangui (on 24 March 2013),[3226] [REDACTED] was introduced to Mr Said and Tahir by Mallo.[3227] Accordingly, the Chamber is satisfied that Tahir was present at the OCRB by late April 2013.

1163. Regarding Tahir's presence at the OCRB, [REDACTED] and [REDACTED] stated that Tahir was not often at the OCRB.[3228] Conversely, Benjamin Mallo testified that he was a regular figure at the OCRB and would come every day.[3229] Having regard to the totality of the evidence, and noting his involvement in the detention of P-2931,[3230] [REDACTED],[3231] as well as P-2400 and others,[3232] the Chamber is satisfied that Tahir was at the OCRB during the period relevant to the charges with at least some frequency.

ii. Yaya Soumayele aka Soumaine[3233] (Seleka Commander)

1164. [REDACTED] stated that Commander Yaya arrived at the OCRB with Mr Said.[3234]

[3223] *See* [REDACTED].
[3224] The Chamber notes its evidentiary analysis and factual findings below regarding Tahir's role in the mistreatment, interrogation and detention of P-2931 at the OCRB in Incident J (*see* below paras 1343-1344, 1346) as well as Tahir's role in the mistreatment of [REDACTED] (*see* below para. 1463). *See also* [REDACTED].
[3225] P-0338: T-017, p. 71. Benjamin Mallo returned to the OCRB in April 2013 after the Seleka takeover of Bangui. *See* below paras 1180-1181.
[3226] [REDACTED].
[3227] [REDACTED]. *See also* [REDACTED].
[3228] [REDACTED]; [REDACTED].
[3229] P-0338: T-017, p. 72.
[3230] *See* below paras 1343-1344, 1346.
[3231] *See* below para. 1463.
[3232] *See* below para. 1532.
[3233] The Chamber notes that witnesses gave slightly different surnames for Yaya, with some stating that his surname was 'Soumayele' (for example, [REDACTED] and [REDACTED]) and other witnesses stating it was 'Soumaine' (for example [REDACTED]). Notwithstanding the similarities of the spelling of this name, as set out in its evidentiary analysis below regarding his role and functions, the Chamber is satisfied that, when witnesses refer to Yaya Soumayele or Yaya Soumaine, they are talking about the same person.
[3234] [REDACTED].

Multiple witnesses testified that Yaya was from Bria,[3235] with [REDACTED] and [REDACTED] stating that he was part of the Rounga ethnic group.[3236]

1165. [REDACTED] indicated that Yaya was Colonel Said's direct deputy and was responsible for overseeing the planning and the actions that were carried out by the duty officers.[3237] [REDACTED] explained that if Mr Said was absent, then Yaya would make the decisions, following orders he had received from Mr Said, noting that if there were issues amongst the Seleka members then Yaya would intervene to guarantee order.[3238] [REDACTED] under the orders of Yaya, who in turn worked under the command of Colonel Mahamat Said.[3239] [REDACTED] similarly testified that Yaya was Colonel Said's deputy at the OCRB and had a lot of influence.[3240]

1166. Two Seleka witnesses testified that Commander Yaya was regularly at the OCRB,[3241] with one of them stating that Yaya was present at the OCRB every day and would often sleep there.[3242]

1167. As to Yaya's functions, a Seleka witness testified that Yaya was part of the commanding team and was part of the team that conducted the patrols for disarmament.[3243] The witness also noted that the work of Yaya was to transfer prisoners to the tribunal.[3244] The Chamber recalls the evidence that Yaya was involved, along with Mr Said and Tahir, in extorting money from the families of detainees in return for the detainees' release from the OCRB.[3245]

1168. The Chamber received evidence that Yaya was detained at the OCRB following the escape of the Yalo brothers.[3246] The Chamber does not consider Yaya's detention at the

[3235] [REDACTED]; P-0338: T-017, pp. 69-70, 78. The Chamber also received evidence from [REDACTED], who indicated that Yaya was from Ndele ([REDACTED]The Chamber does not consider this to be reliable, noting that [REDACTED] was a detainee and did not specify his basis of knowledge.
[3236] [REDACTED]; [REDACTED].
[3237] [REDACTED].
[3238] [REDACTED].
[3239] [REDACTED].
[3240] [REDACTED].
[3241] [REDACTED]; [REDACTED].
[3242] [REDACTED].
[3243] [REDACTED].
[3244] [REDACTED].
[3245] *See* above para. 1135.
[3246] [REDACTED]. *See also* P-2400: T-031, p. 27. The Chamber notes that there is contradictory evidence as to how long Yaya was detained at the OCRB, with [REDACTED] indicating that Yaya had been freed [REDACTED] (*see* [REDACTED], *see* above paras 1108-1109) and other witnesses stating that Yaya was

OCRB to be significant in light of the fact that [REDACTED] and [REDACTED] indicated that, when Yaya was detained, the cell was unlocked and he could get out,[3247] with [REDACTED] indicating that while he was supposedly detained in the cell, Yaya was 'in charge of questioning [him]'.[3248]

1169. The Chamber also received evidence that Yaya mistreated detainees at the OCRB.[3249]

iii. Noiro aka Nassir Abderraman (OCRB Seleka)[3250]

1170. The Chamber received evidence that there may have been multiple people at the OCRB named Noiro.[3251] In this regard, [REDACTED] testified that there was a Noiro, who had been a commander of the OCRB, and a Noiro, also known as Nassir Abderraman, who was designated as a guard of the underground cell.[3252] The Chamber notes from the Prosecution's briefs that it is the latter who is alleged to be a co-perpetrator.[3253]

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detained when they were imprisoned at the OCRB (*see* [REDACTED]). The Chamber observes that the contradictory evidence comes from victims, who the Chamber considers to not be in a position to know how long Yaya was detained for and considers [REDACTED]'s testimony to be reliable in this regard.

[3247] [REDACTED].

[3248] [REDACTED].

[3249] The Chamber notes its evidentiary analysis and factual findings below in respect of [REDACTED]: *see* above [REDACTED].

[3250] The Chamber notes that there is no explicit reference to 'Noiro' in the Pre-Trial Chamber's discussion of the co-perpetrators in the Confirmation of Charges Decision. In the Prosecution Trial Brief, the Prosecution lists 'Noiro' as one of the named co-perpetrators submitting that he is one of Mr Said's subordinates who shared a common plan or agreement to commit the crimes charged (*see* Prosecution Trial Brief, ICC-01/14-01/21-359-Red, paras 326, 328). This is similarly reiterated in the Prosecution Closing Brief (*see* Prosecution Closing Brief, ICC-01/14-01/21-1027-Red, paras 305, 307). The Chamber recalls that, in its discussion of the co-perpetrators, the Pre-Trial Chamber included 'other members of the OCRB-Seleka' (*see* Confirmation of Charges Decision, ICC-01/14-01/21-218-Red, p. 60, para. 33). Accordingly, the Chamber determines that considering Noiro's role at the OCRB does not exceed the facts and circumstances described in the charges as he is one of the OCRB Seleka.

[3251] [REDACTED]. P-0481 also mentions a Seleka named Noiro who was in prison because he lacked discipline (P-0481: T-073, pp. 53-54). P-0481 did not give evidence as to: (i) whether the 'Noiro' he mentioned was an OCRB Seleka member; (ii) how he knew he was in prison; (iii) where 'Noiro' had been imprisoned; and (iv) whether 'Noiro' was a prisoner with P-0481 ([REDACTED]). The Chamber further observes that no other witnesses give similar evidence regarding an OCRB Seleka named 'Noiro' being imprisoned. Accordingly, given the lack of evidence from P-0481 on this point and considering his limited basis of knowledge, the Chamber will not consider P-0481's reference to 'Noiro' further. *See* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 614.

[3252] [REDACTED]. P-1967, [REDACTED], stated that a Seleka colonel named 'Noiro' was running the OCRB (*see* P-1967: CAR-OTP-2069-0498, at 0513, para. 69). The Chamber notes that P-1967 stated that he only went to the OCRB twice and he does not explain when he went. In any event, as set out in P-1967's credibility assessment, the Chamber does not consider this aspect of P-1967's evidence to be reliable. In this regard, [REDACTED] the Chamber considers P-1967 to have a limited basis of knowledge for determining who was in charge of the OCRB and therefore will not rely on his evidence on this point: *see* above paras 162-168. *Contra* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 632.

[3253] *See* Prosecution Closing Brief, ICC-01/14-01/21-1027-Red, paras 249-250, 305, 307; Prosecution Trial Brief, ICC-01/14-01/21-359-Red, para. 354. *See also* Prosecution Trial Brief, ICC-01/14-01/21-359-Red, paras 115, 326, 328, 354. *Contra* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 614.

1171. A Seleka insider stated that Nassir Abderraman was known as Noiro because of his dark skin.[3254] The witness testified that this Noiro was one of the OCRB Seleka under Colonel Said and was appointed by Colonel Said to look over the underground cell after prisoners started being brought there.[3255] The witness stated that Noiro alone took on this role and the other duty officers, [REDACTED], were in charge of the prisoners in the outside cells.[3256] The witness testified that when Noiro was put in charge of the underground cell, the prisoners to be detained in the underground cell were not processed outside at the table and if relatives of those detainees brought food or wished to visit, then this had to go through Noiro.[3257] Another Seleka insider similarly confirmed that a Noiro was responsible for guarding the underground cell.[3258]

1172. The Chamber further notes its evidentiary analysis on Incident R below and its discussion of Noiro's role [REDACTED] at the OCRB.[3259]

4. The OCRB Seleka

1173. The Chamber received evidence that, during the period relevant to the charges, there were over 30 Seleka members,[3260] who lived on the OCRB premises, eating and sleeping in

[3254] [REDACTED].
[3255] [REDACTED].
[3256] [REDACTED].
[3257] [REDACTED].
[3258] [REDACTED]. Noting the power imbalance between the OCRB Seleka and the detainees held in the underground cell, who were not in a position to know the names of all their captors or the internal workings of the OCRB Seleka, the Chamber does not find the absence of other references to 'Noiro' in the context of the underground cell to be significant. *Contra* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 614.
[3259] *See* below paras 1572, 1574-1575.
[3260] Witnesses estimate that between 30-50 Seleka members were present at the OCRB during the relevant period. *See* [REDACTED] (over thirty); [REDACTED] (approximately between 40-50 Seleka members at the OCRB upon his arrival); [REDACTED] (30 individuals had been deployed to the OCRB). [REDACTED] stated he was unable to provide an estimate of the number of OCRB Seleka members. [REDACTED]. The Chamber received three lists allegedly containing names of the OCRB Seleka members. [REDACTED] provided a handwritten list, [REDACTED] containing names of 19 OCRB Seleka members. [REDACTED] provided a typed list of 29 names and grades of OCRB Seleka members, [REDACTED]. [REDACTED] provided a handwritten list with about 30 names, [REDACTED]. The Chamber observes that while the lists contain some common names, they vary in a number of respects. The Chamber notes that a number of witnesses, such as [REDACTED], P-0338, [REDACTED] commented on the lists and provided further information on specific Seleka. However, the Chamber received limited information on how the lists were compiled, the methodology employed and when the individuals on the lists were stationed at the OCRB. In these circumstances, the Chamber considers that the lists have limited probative value in and of themselves. However, to the extent that witnesses comment on the lists, the Chamber has assessed their evidence and taken it into consideration. *See* Defence Closing Brief, ICC-01/14-01/21-1039-Red, paras 364-366.

the offices and the courtyard of the OCRB building (the 'OCRB Seleka').[3261]

1174. There is evidence that Mr Said brought some of his own Seleka members with him upon his arrival at the OCRB.[3262] There is also evidence that subsequently other Seleka members joined the OCRB, and after being registered and given identification badges, they were assigned duties at the OCRB.[3263]

1175. Witnesses testified that lower-ranking OCRB Seleka members reported to their commanders or duty officers.[3264] As also discussed above,[3265] the Chamber received evidence that the OCRB Seleka had duty officers and assigned shifts and specific duties like carrying out patrols, guarding the premises and running the detention facilities.[3266] Benjamin Mallo testified that these Seleka at the OCRB were not professionals and had assigned themselves the ranks they wanted, with the people in charge proclaiming themselves as 'colonel, commander, captain'.[3267]

[3261] [REDACTED]. [REDACTED] testified that the Seleka would take turns 'to be on duty at the OCRB' but there was no stable work plan or schedule. He testified that the Seleka would spend their time in the OCRB compound and slept on the premises, including on the terrace, in the veranda and in the main building. He testified that their food rations were given to them at the OCRB and they would also have their meals there. *See* [REDACTED]. [REDACTED] also stated that the OCRB Seleka were using the OCRB offices as their housing: [REDACTED]. Benjamin Mallo recalled the OCRB Seleka members sleeping in the courtyard under the tree next to the cellblock: P-0338: T-018, pp. 40-41, referring to photograph, CAR-OTP-2033-6871; [REDACTED], referring to photograph of OCRB compound, CAR-OTP-2033-6811 (annotated version, CAR-REG-0002-0078, indicating where the Seleka members lived inside the building with a '4').

[3262] [REDACTED]. [REDACTED]. [REDACTED] also testified that while Mr Said arrived with some of his people, some Seleka members came afterwards and would continue to arrive at the OCRB while Mr Said worked there: [REDACTED].

[3263] [REDACTED] stated that after 24 March 2013, he was deployed at [REDACTED] when [REDACTED] took him to the OCRB; after the witness [REDACTED], [REDACTED] took him [REDACTED] and assigned him work at the OCRB. He stated that during this time, he also [REDACTED]. *See* [REDACTED]. Similarly, [REDACTED] gave evidence that [REDACTED] brought him from Camp de Roux to the OCRB Central, [REDACTED]. [REDACTED] testified that all Seleka soldiers at the OCRB had to be identified. *See* [REDACTED]. The Chamber recalls [REDACTED] evidence regarding the issuance of their OCRB identification badges containing the initials 'CMSAK'. *See* above para. 1116. [REDACTED]. *See also* [REDACTED].

[3264] [REDACTED]; [REDACTED]; [REDACTED]. Benjamin Mallo stated that lower-ranking OCRB Seleka members were a mixture of Central Africans, Chadians and Sudanese: P-0338: T-018, p. 30. *See also* [REDACTED], referring to list of Seleka at the OCRB, CAR-OTP-2082-0458.

[3265] *See* above para. 1126.

[3266] [REDACTED] testified that his job at the OCRB was to carry out interventions, which meant that he, along with others, would carry out night patrols in order to prevent any cases of attacks carried out by armed men, would assist the person who received complaints, and for a certain time he was responsible for holding the keys to the cells: [REDACTED]. [REDACTED] gave evidence about standing guard at the OCRB entrance on a two-hour rotation basis, together with other OCRB Seleka members: [REDACTED]. [REDACTED] testified that they were assigned functions, *inter alia*, as duty officers, gaolers, investigators, in charge of receiving complaints or conducting interventions: [REDACTED].

[3267] P-0338: T-017, pp. 77-79, referring to list of Seleka at the OCRB, CAR-OTP-2082-0458. [REDACTED] stated that the OCRB officers working under the supervision of Mahamat Said included captains and lieutenants, as well as those under the rank of lieutenant, which 'were grades that people chose themselves.': [REDACTED].

1176. The Chamber received evidence of weapons being stored at an assigned place at the OCRB,[3268] with witnesses indicating that the OCRB Seleka had weapons 'in abundance' and of all calibres.[3269] Furthermore, witnesses testified that there was a system in place to ensure that the OCRB Seleka, who were on duty, had a weapon they could use which they would pass on to the next member after their shift ended.[3270] There is evidence that the OCRB Seleka had at least two service vehicles,[3271] one used by Mr Said and the other by Tahir,[3272] and that they would use these vehicles and other vehicles which had been taken by force to carry out patrols and transport detainees.[3273]

5. Role of the police at the OCRB

1177. The Chamber considered evidence regarding the involvement of the Central African police in the activities of the OCRB during the period relevant to the charges. The Chamber recalls its earlier factual findings that although Henri Wanzet Linguissara

[REDACTED] stated that he did not receive any police training but kept his position as lieutenant (which he received upon joining the Seleka in [REDACTED]) despite not having much of a say at the OCRB ([REDACTED]): [REDACTED].

[3268] P-0338: T-019, p. 9. [REDACTED] also recalled that there was a weapons storage at the OCRB and Mahamat Said held the key to this place, which was located outside adjoining the cellblock at the rear. *See* [REDACTED]. *See also* [REDACTED].

[3269] Benjamin Mallo stated that all Seleka members at the OCRB were armed and each had their Kalashnikovs: P-0338: T-017, p. 74; P-0338: T-019, p. 9. [REDACTED] also stated that each person had an AK-47 and for interventions, they used heavy weapons, including rocket launchers, which were mounted on vehicles: [REDACTED]. [REDACTED] gave evidence that the OCRB Seleka were very well-armed with rockets, AKs and other types of weapons whereas the police officers at the OCRB did not have anything other than four AKs in total for everyone: [REDACTED]. *See also* [REDACTED]; [REDACTED].

[3270] [REDACTED] testified that AK-47s were distributed to the OCRB Seleka 'carrying out the service' and had the obligation to keep their weapon on them until their service was completed, following which the weapon would be given back to 'the arms dump' for 'the next person carrying out the next service': [REDACTED]. [REDACTED] recalled there being around 10 or a dozen or so weapons and that when they were free, they were not allowed to carry weapons. He stated that when there was a shift change, one had to check the quantity of ammunition and the number of weapons and fill out a piece of paper to account for all of the military equipment, which also noted the guard change. *See* [REDACTED]. [REDACTED] similarly described being given a Kalashnikov and handing over the weapon to 'the person who came after to replace you': [REDACTED]. Benjamin Mallo testified during the normal functioning of the OCRB an officer would come to the OCRB with their weapon and have it checked and have the ammunitions counted, thereafter the officer would join the 'brigade'. Benjamin Mallo stated that the weapons and ammunitions would be recorded, with each weapon bearing a registration number and registered with a particular individual in a 'brigade'. Benjamin Mallo stated that he was unaware as to how the OCRB Seleka internally organised the allocation of weapons and recalled that they were always carrying weapons within the OCRB. *See* P-0338: T-019, pp. 9-10.

[3271] P-0338: T-019, p. 51; [REDACTED]. A Seleka member testified that at the OCRB, there was a white Nissan Hardbody for Colonel Said, there was a Hilux pickup and there was also a BJ75 vehicle, with a heavy weapon mounted on it, and there were also two pickups: [REDACTED].

[3272] P-0338: T-019, p. 51. *See also* [REDACTED].

[3273] [REDACTED]. P-0338: T-019, p. 47. [REDACTED] stated that Nouradine Adam would often travel with two other protection vehicles with 'Police' painted on them, which 'were "BJ75" 4x4 vehicles with open backs, so that the Seleka could sit on the benches in the back and provide protection.' [REDACTED] stated that they also used trucks painted in blue and white, like regular police vehicles, and wrote 'Police', 'OCRB' or 'CNS' on them. *See* [REDACTED]. *See also* [REDACTED].

continued as the Director General of the Central African police during Michel Djotodia's presidency,[3274] in reality Nouradine Adam controlled the activities of the police and gendarmerie, together with his deputy, Rakiss.[3275] [REDACTED] explained that Linguissara did not work at the OCRB and did not interfere with its work, explaining that the OCRB did not work under his direct command and that the commander in-chief was Nouradine Adam.[3276] When discussing Mr Said's relationship with him, [REDACTED] stated that Linguissara came to the OCRB to see the person who was 'in charge', indicating that he only came a few times.[3277]

1178. The Chamber received evidence that Louis Mazangue was the first Director of the OCRB,[3278] and Benjamin Mallo was appointed to this post by François Bozizé in November 2012.[3279]

1179. Witnesses recalled that after the Seleka arrival, Louis Mazangue was officially appointed as Director of the OCRB on 18 April 2013.[3280] In respect of Mazangue's presence at the OCRB, [REDACTED] explained that Mazangue left the OCRB after the return of the police because he was sick.[3281] The Chamber notes that this is consistent with the evidence of Benjamin Mallo who stated that when the Seleka arrived at the OCRB, Mazangue joined them, but when Benjamin Mallo returned to the OCRB after the *Grand Rapport* with Nouradine Adam, he (Benjamin Mallo) took over, explaining that the service memo appointing Mazangue was no longer valid and had been superseded by another ministerial order.[3282] Benjamin Mallo stated that after this, Mazangue was no longer at the OCRB.[3283] Conversely, the Chamber notes that a number of witnesses stated that Mazangue was at the OCRB during the period relevant to the charges.[3284] The Chamber is satisfied that this inconsistency between witnesses can largely be explained by the testimony of [REDACTED], who indicated that, although Mazangue had left, he

[3274] P-2563: T-114, pp. 12-13, referring to photograph, CAR-OTP-2064-0794 ([REDACTED]). *See also* P-2563: T-115, pp. 47-49; P-2105: T-024, p. 56; P-0338: T-017, p. 44; P-0338: T-018, p. 34; P-0338: T-019, pp. 13-14, 23; P-2478: T-033, p. 57.
[3275] *See* above paras 648, 921. *See also* above paras 802, 1147 (evidentiary analysis),
[3276] [REDACTED].
[3277] [REDACTED].
[3278] P-0338: T-017, pp. 67-68. *See also* P-0338, T-019, p. 68.
[3279] P-0338: T-017, pp. 43, 44.
[3280] Internal memo, CAR-OTP-2034-1740. *See also* P-0435: CAR-OTP-2017-0036, at 0046-0047, para. 62. The Chamber notes that this was confirmed by a presidential order, CAR-OTP-2004-0814, at 0823, 0827.
[3281] [REDACTED].
[3282] P-0338: T-017, p. 69.
[3283] P-0338: T-017, p. 68.
[3284] [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

would still pass by the OCRB from time to time.[3285] In addition, several witnesses testified that when Mazangue was present at the OCRB he played no active role. [REDACTED] testified that Mazangue was not in charge,[3286] did not have a direct role, and would just write reports on what was done but did not give orders or intervene in the affairs of the prisoners.[3287] P-0481 and P-1289 similarly stated that Mazangue was just a 'figurehead',[3288] indicating that he had no power.[3289]

1180. As noted above, the Chamber received evidence that after the *Grand Rapport* with Nouradine Adam around April 2013, Benjamin Mallo reported to duty at the OCRB, was officially reappointed as the Director of the OCRB on 8 July 2013[3290] and remained there until the Seleka left the OCRB at the end of August 2013.[3291] [REDACTED] recalled the arrival of Benjamin Mallo at the OCRB. [REDACTED] testified that after Colonel Said's arrival, Nouradine Adam presented a police commander as being in charge of the OCRB and stated that Colonel Said would be his deputy.[3292] [REDACTED] could not recall the police commander's name but the Chamber understands that he was referring to Benjamin Mallo.[3293] [REDACTED] explained that the police commander's role was of a legal nature, and in reality he did not have any direct contact with the Seleka at the OCRB and did not give any orders, instructions or guidelines to them.[3294] [REDACTED]

[3285] [REDACTED]. The Chamber notes that this is largely consistent with the evidence of [REDACTED] who stated that Louis Mazangue would come and go from the OCRB. *See* [REDACTED]. The Chamber further notes that Mazangue was identified in a photograph, CAR-OTP-2064-0791 [REDACTED].
[3286] [REDACTED]. *See also* P-1004: CAR-OTP-2043-0536, at 0541, para. 36. *Contra* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 380.
[3287] [REDACTED]. *Contra* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 632.
[3288] P-1289: T-051, p. 13; P-0481: T-072, p. 28.
[3289] P-1289: CAR-OTP-2053-0359, at 0369, 0372, paras 59, 74; P-1289: T-050, pp. 33-34; P-0481: T-072, pp. 25, 28-29, 30; P-0481: T-073, p. 21. *Contra* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 632.
[3290] Presidential order, CAR-OTP-2004-0814, at 0838, 0842.
[3291] P-0338: T-017, p. 63; P-0338: T-018, p. 55; presidential order, CAR-OTP-2004-0814, at 0838-0842 (dated 8 July 2013, issued by Michel Djotodia on the proposal of the Minister of Public Security, reappointing Benjamin Mallo as the OCRB director); P-2280: CAR-OTP-2135-3728, at 3732-3733. Witnesses have identified Benjamin Mallo in a photograph, CAR-OTP-2069-3226. *See* [REDACTED]; P-1737: T-044, pp. 66-68 ([REDACTED]). Witnesses recalled Benjamin Mallo being replaced by Guy Mangabasse in September 2013: P-2280: CAR-OTP-2135-3728, at 3732; P-1762: T-081, pp. 9-10.
[3292] [REDACTED].
[3293] The Chamber notes that [REDACTED] identified the police commander he refers to in his testimony in a photograph (CAR-OTP-2069-3226, [REDACTED]) which was shown to him in court (*see* [REDACTED]). The Chamber notes that other witnesses, including Benjamin Mallo himself, identify this individual as Mallo (*see* P-0338: T-018, pp. 52-53, referring to photograph, CAR-OTP-2094-1927 (annotated version, CAR-REG-0002-0030); P-2478: CAR-OTP-2107-8835, at 8855, para. 77, referring to photograph, CAR-OTP-2094-1927, addendum to P-2478's prior recorded testimony, CAR-OTP-00000461, at 000003-000004, referring to photographs, CAR-OTP-2069-3226 and CAR-OTP-2094-1927). The Chamber also note that [REDACTED] described the police commander as a lieutenant colonel (*see* [REDACTED]) and P-0338 confirmed that he was a lieutenant colonel (*see* P-0338: T-017, p. 64).
[3294] [REDACTED].

testified that he viewed the police commander's role as being 'advisory' and he would often come to Colonel Said to get information and give his opinion.[3295] [REDACTED] stressed that the police commander did not manage the Seleka at the OCRB, who were under Colonel Said's command, explaining that Colonel Said was the one that put him on the patrol team and Colonel Said was the one giving the direct orders.[3296]

1181. There is evidence that after the *Grand Rapport* with Nouradine Adam, about four police officers resumed work at the OCRB, alongside Benjamin Mallo, and were stationed there until at least the end of August 2013.[3297]

1182. Benjamin Mallo gave evidence that when the Seleka arrived, the OCRB was totally turned on its head.[3298] Benjamin Mallo and [REDACTED] testified that there were two administrations at the OCRB: the Seleka, who were under the direct command of Nouradine Adam and Mr Said, and the police, who reported to the Director General of the Police.[3299] Benjamin Mallo testified that, in respect of his tasks at the OCRB during the Seleka regime, after the Seleka arrived, he was no longer in a position to perform his functions as he would do during normal times.[3300] The Chamber notes that the testimony of a number of other witnesses, including victims and Seleka insiders, confirms that the police had limited power and were not able to exercise their functions as normal.[3301] Benjamin Mallo stated that he was just passing on information and instructions from the Director General or the Minister to Colonel Said, who had men at his 'beck and call',[3302] and Jean-Claude Sophil stated that Mr Said dictated what the police did and they were

[3295] [REDACTED].
[3296] [REDACTED].
[3297] P-0338: T-017, p. 81 (only four police officers resumed their duties after the Seleka took over, namely [REDACTED] and a private). [REDACTED]. *See also* [REDACTED]; [REDACTED] also mentions the same individuals as returning to the OCRB: [REDACTED]. *See also* [REDACTED] (appointing [REDACTED] as '[REDACTED]'). The Chamber notes that [REDACTED] mentions some additional individuals as having returned to the OCRB during the time that the Seleka were there ([REDACTED]) but considered the evidence to be inconclusive in this respect: [REDACTED]. [REDACTED] stated that [REDACTED] came back to the OCRB in 2013 and that [REDACTED] worked there in 2013 but it was not clear if this was during the Seleka period: [REDACTED].
[3298] P-0338: T-018, pp. 23-24. *Contra* Defence Closing Brief, ICC-01/14-01/21-1039-Red, paras 347 *et seq*.
[3299] P-0338: T-018, p. 20; [REDACTED]. *See also* P-0787: CAR-OTP-2036-0410, at 0418, 0422, paras 41, 57; P-0547 also described two camps at the OCRB, a police camp and a Seleka camp: P-0547: T-013, p. 34.
[3300] P-0338: T-019, p. 46. *Contra* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 351.
[3301] P-2280: CAR-OTP-2135-3728, at 3732; [REDACTED]. The Chamber further recalls the testimony of [REDACTED] who described Benjamin Mallo's role as 'advisory', noting that he could not give orders to the Seleka members: *see* above para. 1181.
[3302] P-0338: T-019, p. 46.

forced to comply with his orders.[3303]

1183. There is evidence that the police officers would stay at the OCRB during the day and leave the premises after their working hours.[3304] However, Benjamin Mallo testified that there was a lot of pressure at the OCRB and not all the police officers were there regularly.[3305] There is also evidence that the OCRB Seleka could be distinguished from police officers by their attire.[3306]

1184. The Chamber received evidence that police officers stationed at the OCRB endeavoured to carry out their regular activities, to the extent possible,[3307] and also attempted to prepare the necessary records and case-files of detainees at the OCRB in order for the prosecutor to examine them and release detainees.[3308] Benjamin Mallo described one

[3303] P-0787: CAR-OTP-2036-0410, at 0418, paras 41.

[3304] Benjamin Mallo stated that he would arrive between 08:00-09:00 and leave between 17:00-18:00 and would return if there was something urgent: P-0338: T-017, p. 82. [REDACTED] recalled that the police officers of the OCRB intervention unit would show up every day between 07:30 and 08:00 and from 14:30 to 15:00: [REDACTED]; P-0787: CAR-OTP-2036-0410, at 0412, para. 13. *See also* P-2239: CAR-OTP-2104-0918, at 0932, para. 65.

[3305] P-0338: T-017, p. 80.

[3306] [REDACTED] stated that it was easy to distinguish between the police officers and the Seleka because the police officers were still wearing their sky-blue shirts and navy-blue trousers: [REDACTED]. Witnesses have identified police officers in photographs as those wearing light-blue uniform. *See* photographs, CAR-OTP-2069-3230, CAR-OTP-2069-3231, CAR-OTP-2069-3232, CAR-OTP-2069-3233, CAR-OTP-2069-3236, CAR-OTP-2069-3245, CAR-OTP-2069-3224, CAR-OTP-2069-3226, CAR-OTP-2069-3227, CAR-OTP-2069-3228, CAR-OTP-2069-3229. [REDACTED] also stated that while the OCRB Seleka members were wearing several types of clothes before, they were later given black uniforms with 'POLICE' written on them, which were specific to the OCRB: [REDACTED].Witnesses recalled that the OCRB Seleka members wore a variety of different uniforms, with higher ranking OCRB Seleka members (namely, Sallet, Damboucha, Yaya, Tahir, Ibrahim) wearing 'what they wanted', alternating between wearing different coloured military uniforms and civilian clothing, and lower-ranking Seleka members at the OCRB having to source their own military uniforms: [REDACTED], referring to photograph of Seleka members, CAR-OTP-2094-1904. [REDACTED]. [REDACTED] the military uniform [REDACTED], was 'worn by pretty much all Seleka soldiers' and that 'everybody had to muddle through on their own to have a military outfit' [REDACTED]: [REDACTED]. There is evidence that the OCRB Seleka working for Mr Said wore military attire and blue brassards: [REDACTED], referring to photograph, CAR-OTP-2069-3244 ([REDACTED]). *See also* P-1762: CAR-OTP-2073-0568, at 0572, para. 20.

[3307] Benjamin Mallo testified that those detained at the OCRB were not summoned before the prosecutor and summoning detainees to the prosecutor's office and organising something on a legal level was not possible when the Seleka were at the OCRB. *See* P-0338: T-018, p. 58; P-0338: T-019, pp. 25-29. On the other hand, [REDACTED]. [REDACTED] recalled that, despite this, there were also prisoners who were processed outside the judicial system by Colonel Said and Tahir, who were collecting money from the detainees to release them and that [REDACTED]. [REDACTED] stated that the OCRB Seleka did not want the police officers to deal with cases where people had been tortured, and so the detainees whom [REDACTED] interviewed were those who did not show any traces of physical violence. *See* [REDACTED]. The Chamber recalls its concerns regarding the consistency of [REDACTED]testimony with other evidence received (*see* above paras [REDACTED]) and it is not persuaded on the basis of the foregoing that many detainees were processed in the usual way during the time that the Seleka were based at the OCRB.

[3308] [REDACTED]. Jean-Claude Sophil testified that Mr Said dictated what the career police officers investigated and what they passed to the prosecutor: P-0787: CAR-OTP-2036-0410, at 0418, para. 41. The Chamber notes that other evidence regarding the involvement of the prosecutor shows that he was unable to freely exercise his duties regarding Seleka detainees even in those cases in which his office was permitted to be involved: *see, for example*, P-0481: T-072, pp. 37-38; P-0787: CAR-OTP-2036-0410, at 0428, para. 87.

instance where he organised an escape for some of the detainees kept in the cells in the courtyard, with the cooperation of some of the police officers.[3309]

1185. However, regarding their general functioning, witnesses recalled that the police officers at the OCRB were not receiving criminal complaints, nor investigating and arresting people at that time.[3310] The testimony of victims who were detained at the OCRB confirmed that the police were unable to intervene regarding their detention by the Seleka.[3311] Benjamin Mallo testified that when the Seleka were at the OCRB he did not have the power to go and remove someone from the holding cell and summon him in front of the prosecutor.[3312] [REDACTED] similarly testified that the police had no access to the OCRB detention cells,[3313] and Jean-Claude Sophil testified that the Seleka ultimately controlled the cells.[3314] Benjamin Mallo indicated that the presence of the police at the OCRB was 'purely ornamental', they would just witness the exactions at the Seleka base and the detainees at the OCRB were 'Seleka prisoners'.[3315] Benjamin Mallo stated that the processes that would happen in 'normal times' did not happen and when the Seleka were there 'it was simply out of the question because the colonel was there and he would say that the prisoners are Djotodia's prisoners.'[3316] Benjamin Mallo testified that overall the police had much more of an 'observing function',[3317] noting that he would act as an intermediary between the 'users'[3318] of the OCRB and Colonel Said,

[3309] P-0338: T-018, pp. 17-23.
[3310] P-0338: T-019, p. 47. [REDACTED]. P-0481 stated that even though a senior police officer had been appointed as director of the OCRB, he did not have the power to exercise these functions: P-0481: T-072, p. 25. The Chamber notes [REDACTED] evidence that the police and the OCRB Seleka would be deployed to respond to emergencies reported by people: [REDACTED]. However, given the consistent evidence concerning the functioning of the police, particularly from Benjamin Mallo [REDACTED], the Chamber accords less weight to [REDACTED] evidence in this respect. *Contra* Defence Closing Brief, ICC-01/14-01/21-1039-Red, paras 352-354.
[3311] P-3047: CAR-OTP-2130-6904, at 6912, para. 42; P-1289: CAR-OTP-2053-0359, at 0369, 0372, paras 59, 74; P-1289: T-051, p. 13. *See also* P-0547: T-013, p. 34.
[3312] P-0338: T-019, pp. 29, 47. *See also* P-0338: T-018, p. 59; P-0338: T-019, p. 32. *Contra* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 372.
[3313] [REDACTED].
[3314] P-0787: CAR-OTP-2036-0410, at 0426, para. 74.
[3315] P-0338: T-019, p. 47. Benjamin Mallo also recalled that the Criminal Investigation Unit did not exist *per se*, and it was only in the presence of the prosecutor that Benjamin Mallo would see the cell, but otherwise would not go near the cells: P-0338: T-018, p. 24. *Contra* Defence Closing Brief, ICC-01/14-01/21-1039-Red, paras 351-354.
[3316] P-0338: T-019, p. 47.
[3317] P-0338: T-017, p. 83.
[3318] Benjamin Mallo explained that by 'users' he meant people who would 'come to the police': P-0338: T-017, pp. 83-84.

and direct people to Colonel Said so that he could find solutions for them.[3319] [REDACTED] stated that they were at the [REDACTED] Seleka who could do what they wanted,[3320] and the police officers stationed at the OCRB at the time did not have any means of transport to carry out patrols.[3321] Jean-Claude Sophil similarly testified that the Seleka took all the weapons when they arrived at the OCRB.[3322]

1186. Benjamin Mallo stated that there was no procedure to identify all those who were arrested by the Seleka at that time.[3323] In this regard, Benjamin Mallo testified that confronting the Seleka at the OCRB to question them about victims was tricky, which was the same for all the police - it was 'like walking on eggshells for us all'.[3324] Jean-Claude Sophil similarly testified that he was once asked by the prosecutor to make a list of everyone in detention but was unable to do so as it was too dangerous and the Seleka would have killed him.[3325]

6. Charged incidents

a) Incident A

1187. In respect of Incident A, the Chamber considered evidence provided by P-1289 [REDACTED] as witnesses to the events, together with documentary evidence.

1188. P-1289 testified that he is a Christian and belongs to the [REDACTED] ethnicity.[3326] P-1289 stated that during François Bozizé's presidency, he [REDACTED].[3327] P-1289 testified that most of the [REDACTED] were close to François Bozizé.[3328] P-1289 testified that he had publicly criticised the Seleka [REDACTED] before they arrived in Bangui and was involved in [REDACTED] after they arrived.[3329]

[3319] Benjamin Mallo testified that if there was a complaint then Benjamin Mallo would ask Colonel Said to check amongst the Seleka members at the OCRB, explaining that if the prosecutor came to the OCRB to ask whether someone had disappeared and was at the OCRB, or if something had been stolen, then Benjamin Mallo would go and ask Colonel Said. *See* P-0338: T-017, pp. 82-83.
[3320] [REDACTED].
[3321] [REDACTED].
[3322] P-0787: T-038, p. 19.
[3323] P-0338: T-019, p. 32-33. *See* above paras 1085-1086.
[3324] P-0338: T-018, p. 61.
[3325] P-0787: CAR-OTP-2036-0410, at 0422, para. 57.
[3326] P-1289: CAR-OTP-2053-0359, at 0359.
[3327] P-1289: CAR-OTP-2053-0359, at 0361, 0366, paras 13, 38; P-1289: T-050, pp. 50-51.
[3328] P-1289: CAR-OTP-2053-0359, at 0361, para. 13.
[3329] P-1289: CAR-OTP-2053-0359, at 0362-0364, paras 17-18, 25, 27. *See also* P-1289: CAR-OTP-2053-0359, at 0363, para. 24, referring to decision, CAR-OTP-2053-0401. *See also* P-1289: T-050, p. 14, referring to decision, CAR-OTP-2053-0401; P-1289: T-050, pp. 53-55.

1189. P-1289 testified that he was arrested by the Seleka on or about [REDACTED] May 2013 at the Ledger Hotel, which he was visiting in the late afternoon with his friend to [REDACTED].[3330] According to P-1289, an armed Seleka member detained him as he was leaving the hotel and told P-1289 to 'go with him for an interrogation'.[3331] P-1289 said that he initially refused and asked why and was told that he had been 'recognized as someone who worked [REDACTED]' and had done 'something to one of their brothers'.[3332]

1190. [REDACTED], stated that Colonel Mahamat Said had asked the soldiers to accompany him on this operation and that it was Colonel Said who went into the hotel and came out with P-1289.[3333]

1191. P-1289 stated that, when he refused to get into the vehicle of the Seleka member, he was slapped and punched in the head and forced inside by the driver, who introduced himself as 'Colonel Mahamat Salle'.[3334] The Prosecution asserts that this individual is Colonel Mahamat Sallet Adoum Kette.[3335] The Chamber notes the variation in the spelling of the name Sallet and that the names Mahamat and Sallet are relatively common. Therefore, in ascertaining that this individual was in fact Mahamat Sallet Adoum Kette, the Chamber

[3330] P-1289: CAR-OTP-2053-0359, at 0364-0365, paras 30-31, 33. The Chamber notes that P-1289 claimed that he has a bad memory when it comes to dates, but knew that this incident took place on [REDACTED] May 2013 because he consulted [REDACTED] agenda where the event was recorded: P-1289: CAR-OTP-2053-0359, at 0364, para. 30; P-1289: T-050, pp. 16-17, referring to agenda, CAR-OTP-2053-0383. The Defence argues that the page of the agenda received by the Prosecution investigators was a copy taken by the witness and that the existence of the actual item was not verified by the Prosecution. *See* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 417. The Chamber does not consider this to be a relevant consideration in circumstances where it has no reason to doubt the testimony of the witness. Even assuming that the agenda consulted was inaccurate, the Chamber notes that P-1289's recollection of the timing also coincides with the presence of [REDACTED] ([REDACTED] detained at the OCRB until [REDACTED] June 2013) and of a Seleka member at the OCRB (who was stationed there [REDACTED] before [REDACTED] June 2013). *See* above paras [REDACTED] (regarding the presence of the Seleka member) and [REDACTED] (regarding the presence of the [REDACTED]).
[3331] P-1289: CAR-OTP-2053-0359, at 0365-0366, para. 37. P-1289 claimed that he assumed the men were part of the Seleka as no one else in Bangui walked around in military uniform carrying weapons during Djotodia's presidency: P-1289: CAR-OTP-2053-0359, at 0365, para. 37.
[3332] P-1289: CAR-OTP-2053-0359, at 0366, para. 37. P-1289 stated that 'Salle' later gave P-1289 the same information while transporting him to the OCRB: P-1289: CAR-OTP-2053-0359, at 0367, para. 43. The Chamber notes that P-1289 stated that the reason he believed he was apprehended was because [REDACTED]. However, the Chamber notes that P-1289 stated this was simply his 'analysis of what had happened', and therefore it cannot place more weight on this assumption than on the above mentioned reason the Seleka member and 'Salle' gave P-1289 during his detention: P-1289: CAR-OTP-2053-0359, at 0375, paras 94-95.
[3333] [REDACTED].
[3334] P-1289: CAR-OTP-2053-0359, at 0366, para. 42; P-1289: T-050, p. 41.
[3335] Prosecution Trial Brief, ICC-01/14-01/21-359-Red, paras 122, 137; Prosecution Trial Brief, ICC-01/14-01/21-359-Conf, para. 137; Prosecution Closing Brief, ICC-01/14-01/21-1027-Red, paras 82, 131-132.

also had regard to the description of the individual offered by P-1289,[3336] which corresponds to the information on the record regarding Mahamat Sallet Adoum Kette's physical appearance, his rank of Colonel and his origins.[3337] On the basis of the foregoing, the Chamber is satisfied that this individual is Colonel Mahamat Sallet Adoum Kette.

1192. P-1289 stated that there were armed Seleka members behind him in the vehicle.[3338] P-1289 testified that 'Salle' threatened to kill him if he did not calm down when he (P-1289) asked 'about the reason for [his] detention', although 'Salle' also told him that he would be interrogated about his work [REDACTED] and then released.[3339] P-1289 stated that while they were in the vehicle, 'Salle' phoned Nouradine Adam and informed them that he had taken the [REDACTED].[3340] P-1289 understood this to refer to him and recalled that this made him feel 'crushed' as he believed that he was going to be killed.[3341]

1193. P-1289 stated that 'Salle' drove him to the OCRB, walked him into the main building and asked him to remove his clothes and possessions (wallet, phone and some papers) and, when he protested, 'Salle' started spitting on him and slapping him.[3342] P-1289 recalled that 'Salle' introduced him to an individual who slapped him across the face and

[3336] P-1289 described 'Mahamat Salle' as someone who 'appeared to be in his early 40s', approximately 175cm tall and 'slim', who had 'short hair, was clean shaven, and wore a khaki colour shirt and military trousers'. P-1289 added that this person's French was 'pretty bad', that he spoke to him in Sango 'with a Muslim accent, but Chadian Muslim rather than Central African Muslim', and that he had an automatic pistol on him. *See* P-1289: CAR-OTP-2053-0359, at 0366, para. 42. P-1289 stated that Mahamat Salle told him that he was [REDACTED]: P-1289: CAR-OTP-2053-0359, at 0367, para. 43.

[3337] P-2105: T-025, pp. 34-35, referring to photograph, CAR-OTP-2114-0323 ([REDACTED]), in which P-2105 recognised 'Colonel Mahamat Saleh Adoum Kette', [REDACTED]. P-2563: T-113, pp. 6-8, referring to photograph, CAR-OTP-2114-0323 ([REDACTED]), in which P-2563 recognised 'Colonel Mahamat Saleh', [REDACTED]. P-1737: T-045, pp. 4-5, referring to photograph, CAR-OTP-2114-0323, in which P-1737 recognised 'General Mahamat Sallet' as the person wearing 'a military pair of pants, he is wearing shoes which we call sandals, and the top is a short-sleeved shirt, and he is wearing a white badge around his neck.' The Chamber notes that although P-1737 refers to this individual as 'General' instead of 'Colonel', he was also able to recognise that a vehicle with the writing 'Colonel Mama Salle' on it was used by Mahamat Sallet: P-1737: T-045, pp. 5-6, referring to photograph, CAR-OTP-2047-0333. The Chamber notes that several insider witnesses have described Mahamat Sallet Adoum Kette's rank as 'Colonel': [REDACTED], referring to photograph, CAR-OTP-2047-0333.

[3338] P-1289: CAR-OTP-2053-0359, at 0366, para. 41.

[3339] P-1289: CAR-OTP-2053-0359, at 0367, para. 43. P-1289 testified that 'Salle' also told him he could be killed at any moment: P-1289: T-050, p. 41.

[3340] P-1289: CAR-OTP-2053-0359, at 0367, para. 46; P-1289: T-050, pp. 41-42.

[3341] P-1289: CAR-OTP-2053-0359, at 0367, para. 46; P-1289: T-050, pp. 41-42.

[3342] P-1289: CAR-OTP-2053-0359, at 0367, para. 48; P-1289: T-050, pp. 21-23, referring to photographs, CAR-OTP-2033-7163, CAR-OTP-2033-7170, CAR-OTP-2033-7175; P-1289: T-050, pp. 40-41. P-1289 clarified that he did not enter the offices in the main building, as he was made to undress in the entrance area and then led outside to his cell: P-1289: T-050, pp. 22-25.

'boxed' him, threatening to kill P-1289 if he did not obey his orders.[3343] P-1289 testified that following this, the OCRB Seleka members placed him in one of the OCRB courtyard cells in only his underwear.[3344]

1194. The Chamber notes that P-1289 subsequently identified this individual who slapped him across the face as Mr Said during witness preparation.[3345] However, the Chamber was not satisfied that this identification was reliable given the description P-1289 provided of the physical appearance of the individual mentioned,[3346] or the explanation that he gave in court as to why he had not mentioned Mr Said's name at the time he gave his original statement.[3347]

1195. [REDACTED] when P-1289 was apprehended at the Ledger Hotel and transported to the OCRB.[3348] The Chamber notes that the evidence presented by the [REDACTED] witnesses differs in certain respects (in particular, regarding the number of Seleka members present, the vehicle in which P-1289 was transported, and where P-1289 was placed in the vehicle)[3349] and that they provide different levels of detail regarding the involvement of specific Seleka individuals, (including, as indicated above, Mr Said),[3350]

[3343] P-1289: T-050, p. 40.
[3344] P-1289: CAR-OTP-2053-0359, at 0368, paras 52-53, referring to sketch of the OCRB drawn by P-1289, CAR-OTP-2053-0382; P-1289: CAR-OTP-2053-0359, at 0369, para. 60; P-1289: T-050, p. 31, referring to photograph of cellblock, CAR-OTP-2033-7064. The Chamber understands P-1289's testimony to be that the Seleka placed him in the first cell on the left of the cellblock to the side of the main entrance to the OCRB. *See also* P-3112's OCRB Report, CAR-OTP-2062-0743, at 0868-0869; photographs, CAR-OTP-2033-7064, CAR-OTP-2033-7127, CAR-OTP-2033-7130, CAR-OTP-2033-7133, CAR-OTP-2033-7137, CAR-OTP-2033-7144.
[3345] P-1289: T-050, pp. 33-34; P-1289: CAR-OTP-2053-0359, at 0371-0373, paras 71, 76. The Chamber did not allow the annex to the witness preparation log of P-1289 to be introduced into evidence, agreeing with the Defence that the nature and amount of new information provided by the witness during witness preparation is so significant that the Prosecution should examine the witness on these matters in court: Email from the Chamber, 29 January 2024, at 18:29. P-1289 identified Mr Said in the photographs shown to him in court: P-1289: T-050, pp. 34-38, referring to photographs, CAR-OTP-2069-3226, CAR-OTP-2069-3227, CAR-OTP-2094-2006.
[3346] P-1289: CAR-OTP-2053-0359, at 0371, para. 71. The Chamber notes in particular that P-1289 indicated that the Seleka commander, whom he subsequently identified as Mr Said, spoke Sango badly, may have been originally from Chad, and appeared to be in his 50s, none of which is consistent with the evidence before the Chamber.
[3347] P-1289: T-050, p. 38; P-1289: T-051, pp. 41-42. The Chamber notes that P-1289 said in his original statement that the names Ibrahim and Mahmoud came to mind in relation to the commander he subsequently identified as Mr Said: P-1289: CAR-OTP-2053-0359, at 0371, para. 71. The Chamber was not satisfied that the explanation P-1289 gave in court sufficiently explained why he did not recall this name when he gave his original statement, but came to know or recall it later.
[3348] [REDACTED].
[3349] According to [REDACTED], the operation was carried out by about three or four Seleka members in a grey Nissan 'Abodi' and they placed P-1289 'into the vehicle, behind': [REDACTED]. P-1289 recalled being placed in the front passenger seat of a white double cabin pick-up truck with the words '*danger de mort, lawa lawa*' (meaning that no matter how far you go, we will find you) inscribed on it, and stated that '[t]here were approximately four armed Seleka rebels in military uniforms seated behind me and few more in the back of the truck': P-1289: CAR-OTP-2053-0359, at 0366, para. 41. [REDACTED].
[3350] *See* above paras 1191, 1195.

at various times during the operation and on arrival at the OCRB.[3351] The Chamber considers that any variations in the accounts of the two witnesses reflect the vagaries of memory given the passage of time, their individual experience of and perspective on these events in terms of what was significant and who was known to them at the time and, in P-1289's case, the stress and fear which he described experiencing during these events. Consequently, the Chamber is satisfied that [REDACTED]'s testimony, on the whole, corroborates P-1289's account of being apprehended by the Seleka at the Ledger Hotel and transferred to the OCRB where he was registered and placed in a cell.

1196. The Defence questioned P-1289 about call data records showing two phone calls between a number attributed to the witness ([REDACTED]) and an unknown number on [REDACTED] May 2013 at [REDACTED] and on [REDACTED] May 2013 at [REDACTED], which would have taken place during the time that he claimed to have been deprived of his phone and detained at the OCRB.[3352] P-1289 reaffirmed that his phone was taken and only returned to him on release, and stated that he did not know or remember anything about these phone calls and did not call anyone with this phone number.[3353] The Prosecution argues that there is no indication that P-1289 used the relevant number ([REDACTED]) in 2013.[3354] According to P-1289's own evidence, someone else used this number in the past, he is unsure when he began using it and he had two other phone numbers that he used in 2013.[3355] The Chamber considers that the call data records for a phone number that may or may not have been one of multiple numbers used by P-1289 in 2013 do not cast doubt on P-1289's testimony that his phone

[3351] [REDACTED]. P-1289 described being detained by one of a number of armed Seleka members, but did not mention Mr Said in this context: P-1289: CAR-OTP-2053-0359 at 0365-0366-0636, para. 37; P-1289: T-050, pp. 41-42. He subsequently identified an individual whom he met at the OCRB as Mr Said, but for the reasons set out above, the Chamber was not satisfied by this identification: P-1289: T-050, pp. 33-34, 40, 42; *See* above para. 1195. P-1289 testified that the driver of the vehicle transporting him to the OCRB introduced himself as 'Colonel Mahamat Salle' and P-1289 identified him as the person responsible for removing his belongings when they reached the OCRB: P-1289: CAR-OTP-2053-0359, at 0366-0367, paras 42, 48. In his prior recorded testimony, P-1289 mentioned meeting [REDACTED] for the first time at the OCRB: P-1289: CAR-OTP-2053-0359, at 0367-0638, paras 49-50; P-1289: T-050, pp. 33-34, 40, 42. Nonetheless, the Chamber notes that, in his oral testimony, P-1289 referred to a person being present in the car 'who took care of me and put me into the gaol, and another person [who] enabled me to stay alive to this day': P-1289: T-051, p. 42. [REDACTED].
[3352] P-1289: T-051, pp. 8-9, referring to call data records, CAR-D33-0014-0022, at 0024 (two phone calls with [REDACTED]).
[3353] P-1289: T-051, p. 9.
[3354] Call data record disclosure report, CAR-OTP-00000514, at 000003.
[3355] P-1289: CAR-OTP-2053-0359, at 0367, para. 48; P-1289: T-050, p. 59.

was removed from him when he arrived at the OCRB.[3356]

1197. P-1289 described the cell as very small (about 2x3 metres) and with no windows, although P-1289 was able to see through the tiny holes in the cell door.[3357] He explained that the cell also lacked a bed, a cover and a toilet and that there was a hole in the ground where he could urinate and it would seep through to the outside.[3358] P-1289 recalled that in order to use the toilet in the OCRB courtyard, he had to be walked out by a Seleka guard.[3359] P-1289 stated that he saw blood and bullet-holes on the walls of his cell and that he was told by a Seleka guard that a prisoner who was making a lot of noise had been killed there two days before.[3360] P-1289 stated that he complained that he could not sleep wearing only his underwear and Colonel Mahamat Sallet agreed to return his clothes.[3361]

1198. P-1289 testified that, on his first night of detention, a young Seleka member [REDACTED] gave P-1289 a mat to sleep on.[3362] P-1289 stated that this person told him 'to do whatever the Seleka asked [him] to do, otherwise they [would] torture [him]'.[3363] P-1289 testified that he was unable to sleep all night due to the stressful atmosphere of his situation.[3364] He stated that he could hear lashes of a whip and women crying,[3365] and that many vehicles were coming and going throughout the night and dropping people off at the OCRB.[3366]

1199. P-1289 testified that the Seleka members who detained him refused to allow him to

[3356] The Chamber notes in this regard that other witnesses recalled that their possessions were confiscated by the Seleka upon arrest or arrival at the OCRB: P-0481: T-073, p. 42; P-2519: CAR-OTP-2127-9471, at 9477-9478, paras 41, 44; P-0547: T-012, pp. 37, 49; P-0547: T-013, pp. 42-43.
[3357] P-1289: CAR-OTP-2053-0359, at 0368, para. 53, referring to sketch of OCRB drawn by P-1289, CAR-OTP-2053-0382. *See also* P-3112's OCRB Report, CAR-OTP-2062-0743, at 0868-0869; photographs of cell, CAR-OTP-2033-7130, CAR-OTP-2033-7133, CAR-OTP-2033-7137, CAR-OTP-2033-7144.
[3358] P-1289: CAR-OTP-2053-0359, at 0368, para. 53.
[3359] P-1289: CAR-OTP-2053-0359, at 0368, para. 54.
[3360] P-1289: CAR-OTP-2053-0359, at 0370-0371, para. 65.
[3361] P-1289: CAR-OTP-2053-0359, at 0369, para. 60.
[3362] P-1289: CAR-OTP-2053-0359, at 0368, paras 49-50; P-1289: T-050, p. 18. According to P-1289, the young Seleka member took his covers back the following morning, which gave P-1289 the impression that such amenities were not given to the prisoners and the Seleka member could get in trouble if the other guards would see: P-1289: CAR-OTP-2053-0359, at 0370, para. 65.
[3363] P-1289: CAR-OTP-2053-0359, at 0368, para. 49. *See also* P-1289: T-050, p. 35.
[3364] P-1289: CAR-OTP-2053-0359, at 0370, para. 64.
[3365] P-1289 testified that at the time of his arrival he had seen these women being placed in the OCRB underground cell from the OCRB compound. He clarified that he could not tell whether the crying women were being raped, beaten or were just weeping from their injuries. P-1289 also recalled that, the following day, he saw fewer women in the OCRB compound, stating that he would not be in a position to know whether the rest had been taken elsewhere or were still in the underground cell: P-1289: CAR-OTP-2053-0359, at 0370, para. 64.
[3366] P-1289: CAR-OTP-2053-0359, at 0370, para. 64.

inform or call anyone.[3367] Nevertheless, P-1289 stated that he managed to ask a number of persons whom he recognised while in the custody of the Seleka to notify his family [REDACTED] of his whereabouts.[3368] He testified that his family had referred his case to the prosecutor of the republic, who had not seen any warrant for his arrest and said that there was no case or file in relation to this matter.[3369] The witness stated that, the morning after he had been detained, friends and family members came to the OCRB. P-1289 recalled that he could hear their voices and cries as they were 'denied access to [him]'.[3370] He stated that his family told the OCRB Seleka members that, even if he was dead, they wanted his body, but the OCRB Seleka members would not confirm that he was there and would not allow them to see him.[3371] The Chamber is satisfied that [REDACTED] corroborates P-1289's account of attempting to notify his family of his whereabouts and their arrival at the OCRB the following day to try to see him.[3372]

1200. P-1289 testified that an OCRB Seleka commandant took him to [REDACTED] the Ministry of Public Security, where he met with Nouradine Adam.[3373] It is P-1289's testimony that Nouradine Adam [REDACTED].[3374] P-1289 testified that Nouradine Adam asked him about his work [REDACTED].[3375] P-1289 testified that Nouradine Adam ultimately told him [REDACTED],[3376] and that [REDACTED].[3377] P-1289 stated that he was warned by Nouradine Adam to avoid working with [REDACTED], otherwise Nouradine Adam would kill him.[3378]

1201. P-1289 testified that Nouradine Adam [REDACTED],[3379] [REDACTED].[3380] P-1289 stated that Nouradine Adam released him, ordered that his possessions be returned and

[3367] P-1289: CAR-OTP-2053-0359, at 0366-0367, paras 39, 43.
[3368] P-1289: CAR-OTP-2053-0359, at 0366-0367, 0369-0371, paras 43-45, 61-62, 66; P-1289: T-050, p. 18.
[3369] P-1289: T-051, p. 19. *See also* P-1289: CAR-OTP-2053-0359, at 0372, para. 73.
[3370] P-1289: CAR-OTP-2053-0359, at 0372, para. 73.
[3371] P-1289: CAR-OTP-2053-0359, at 0372, para. 73. *See also* P-1289: CAR-OTP-2053-0359, at 0372-0373, paras 73-77.
[3372] [REDACTED]. The Chamber [REDACTED] is satisfied that these differences in recollection do not fundamentally undermine the consistency of their stories.
[3373] P-1289: CAR-OTP-2053-0359, at 0372-0373, paras 76, 81.
[3374] P-1289: CAR-OTP-2053-0359, at 0373-0374, para. 82.
[3375] P-1289: CAR-OTP-2053-0359, at 0374, paras 83-87.
[3376] P-1289: CAR-OTP-2053-0359, at 0374, para. 88.
[3377] P-1289: CAR-OTP-2053-0359, at 0375, para. 90.
[3378] P-1289: CAR-OTP-2053-0359, at 0375, para. 90. *See also* P-1289: T-050, p. 45.
[3379] P-1289: CAR-OTP-2053-0359, at 0375, para. 91.
[3380] P-1289: CAR-OTP-2053-0359, at 0375, para. 91.

[REDACTED].[3381] P-1289 stated that his belongings were returned to him and that he went home with his family members who were waiting outside the OCRB compound for him.[3382]

1202. P-1289 testified that, after his release, he met [REDACTED].'[3383] On subsequent reflection, P-1289 came to the view that he [REDACTED].'[3384]

1203. As regards the harm he continues to suffer,[3385] P-1289 stated that he has been unable to forget what he had experienced, despite his best efforts and that he was humiliated by these events.[3386] P-1289 also testified that every time he goes past these places, he is reminded that other individuals who were in his position are no longer among us today.[3387] P-1289 further added that [REDACTED].[3388]

b) Incident B

1204. In respect of Incident B, the Chamber considered the evidence of P-0481, who was the victim, and P-0622, who witnessed the events, as well as the record of P-0481's complaint to the *Commission Mixte d'Enquête*, in which context P-0622 gave an account, as well as call data records.

1205. P-0481 testified that [REDACTED] and Christian.[3389] P-0481 gave evidence that he [REDACTED].[3390] P-0481 testified that [REDACTED],[3391] [REDACTED].[3392] According to P-0481, although he initially fled Bangui after the Seleka arrived,[3393] he returned on or around [REDACTED] 2013 and remained in hiding because he was

[3381] P-1289: CAR-OTP-2053-0359, at 0375, para. 91. P-1289 recalled that, [REDACTED]: P-1289: CAR-OTP-2053-0359, at 0375, para. 92.
[3382] P-1289: CAR-OTP-2053-0359, at 0375, para. 93.
[3383] P-1289: CAR-OTP-2053-0359, at 0376-0377, para. 102. *See also* P-1289: CAR-OTP-2053-0359, at 0370, paras 62-63.
[3384] P-1289: CAR-OTP-2053-0359, at 0375, paras 94-95.
[3385] The Chamber notes the submissions of the CLRV in this respect: CLRV Closing Brief, ICC-01/14-01/21-1028-Red2, paras 146, 149, 151.
[3386] P-1289: T-050, p. 43.
[3387] P-1289: T-050, p. 43.
[3388] P-1289: T-050, pp. 43-45. *See also* P-1289: CAR-OTP-2053-0359, at 0361, para. 15; P-1289: T-050, p. 49, where the witness discusses his professional activities in May 2017.
[3389] P-0481: T-072, p. 6.
[3390] P-0481: T-072, pp. 6-7; P-0481: T-073, pp. 23-24. The Chamber notes that [REDACTED]: P-0481: T-073, p. 24.
[3391] P-0481: T-072, pp. 6-7.
[3392] P-0481: T-072, pp. 7-10.
[3393] P-0481: T-072, p. 13.

informed that the Seleka were trying to arrest him.[3394]

1206. P-0481 believed that the Seleka had ascertained where he was hiding,[3395] which prompted him to [REDACTED].[3396] P-0481 testified that armed Seleka members ambushed him [REDACTED].[3397]

1207. P-0481 stated that the Seleka members arrested him and the individual [REDACTED] but subsequently released the latter.[3398] P-0481 believed that the arrest of the other individual was simply a guise to make it appear as though this person 'was not the one who organised' P-0481's arrest.[3399] The Chamber notes that in the statement that P-0481 gave before the *Commission Mixte d'Enquête* in 2014, he alleged that [REDACTED] set a trap so that Nouradine Adam's men could arrest him in order to [REDACTED].[3400]

1208. The Defence argues that the evidence shows that there was reasonable cause to arrest and detain P-0481 for investigation, as P-0622 presented P-0481 as a suspect with information on [REDACTED] and P-0481 explains that [REDACTED].[3401] However, the Chamber considers that a reading of P-0481's evidence as a whole shows that the Seleka wanted to arrest him because of [REDACTED]. Indeed, the Chamber notes that he was in hiding and in the process of arranging his departure from Bangui for this very reason when he was arrested [REDACTED]. Irrespective of whether this person set him up for arrest, the evidence, including the evidence set out below in relation to his subsequent questioning, shows that Nouradine Adam's interest in P-0481 [REDACTED].

[3394] P-0481: T-072, pp. 16-19.
[3395] P-0481: T-072, pp. 17-18.
[3396] P-0481: T-072, pp. 18-21.
[3397] P-0481: T-072, pp. 21-22.
[3398] P-0481: T-072, pp. 22-23. P-0481 testified that the other individual was subsequently set free, explaining that 'he was released from the cell and he walked in front of my cell in order to leave the compound': P-0481: T-073, p. 56. [REDACTED].
[3399] P-0481: T-072, p. 23.
[3400] Complaint before the *Commission Mixte d'Enquête* dated [REDACTED], CAR-OTP-2005-2526, at 2527; statement before the *Commission Mixte d'Enquête* dated [REDACTED], CAR-OTP-2005-2526, at 2531-2532. The Chamber has also had regard to the fact that the Prosecution's allegations in respect of the torture, particularly in terms of the duration of the mistreatment and whether he was given water to drink, do not appear to be supported by the witness's in-court testimony. The Prosecution alleged that OCRB-Seleka forced the witness to drink [REDACTED], tied his hands behind his back, and made him lie on his back with the middle of his body propped up on a wooden plank, before beating him on his bare stomach as he was stretched backwards for around 20 minutes, and putting [REDACTED] on his hands, from which he still bears the scars. *See* Prosecution Trial Brief, ICC-01/14-01/21-359-Red, para. 143, Prosecution Trial Brief, ICC-01/14-01/21-359-Conf, para. 143.
[3401] Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 306, Defence Closing Brief, ICC-01/14-01/21-1039-Conf, para. 306.

1209. P-0481 testified that, following the arrest, the Seleka members handcuffed him and transported him in a pick-up vehicle to the Ledger Hotel.[3402] According to P-0481, Hissene Mahamat Sale,[3403] whom he described as the 'the head of security of Nouradine', was in charge of the Seleka members who arrested him.[3404] P-0481 testified that Nouradine Adam saw him (P-0481) while he was still in the vehicle and asked him if he [REDACTED].[3405] P-0481 testified that Nouradine Adam then asked Mahamat Sale in Arabic to take P-0481 to the OCRB, which he (Sale) promptly did.[3406]

1210. P-0481 testified that the Seleka members brought him to the OCRB between [REDACTED],[3407] and placed him in a cell on the orders of a bearded Seleka member, whose name he did not know.[3408]

1211. When he testified in court, P-0481 recalled that this took place sometime at [REDACTED] 2013.[3409] However, in a complaint that he filed before the *Commission Mixte d'Enquête* in [REDACTED], he indicated that his arrest occurred at [REDACTED] 2013. Call data records show that a phone call between P-0481 and [REDACTED], P-0622, took place on [REDACTED] 2013 and there is evidence that they were detained shortly after this call.[3410] The Chamber notes that P-0481 testified that he was put in a

[3402] P-0481: T-072, pp. 21, 23.
[3403] The Chamber notes that the Prosecution alleges that this individual is Mahamat Sallet Adoum Kette: Prosecution Closing Brief, ICC-01/14-01/21-1027-Red, para. 135. The Chamber observes that P-0481 only describes this individual as Nouradine Adam's 'head of security', and does not provide any further information about him: P-0481: T-072, p. 22. The Chamber considers that, without more, it cannot conclude that this individual is Mahamat Sallet Adoum Kette.
[3404] P-0481: T-072, p. 22.
[3405] P-0481: T-072, pp. 24-25.
[3406] P-0481: T-072, pp. 24-25. The Chamber notes that [REDACTED] P-0481 would have been in a position to understand an instruction given in Arabic: [REDACTED].
[3407] P-0481: T-072, pp. 24, 26; P-0481: T-073, p. 8. While P-0481 initially testified that he arrived at the OCRB at [REDACTED], later on in his testimony he was asked to read out the language of his complaint before the *Commission Mixte d'Enquête*, CAR-OTP-2018-0566, lodged in [REDACTED] in which he (P-0481) stated that he was transferred from the Ledger Hotel to the OCRB at around [REDACTED]. The Chamber considers that the discrepancy concerning the exact time does not impact the veracity of P-0481's testimony on this point or more generally. The Chamber concludes that P-0481 arrived at the OCRB sometime between [REDACTED] and [REDACTED]. It notes that P-0481 stated that he had been to the OCRB on a previous occasion (P-0481: T-072, p. 25) and therefore would have been able to recognise it.
[3408] P-0481: T-072, pp. 26-27. P-0481 testified that he did not know what the bearded Seleka's name was when he reached the OCRB, but that he learnt when he was in the cell that his alias was '[REDACTED]', who was also known as [REDACTED], adding that '[REDACTED]': P-0481: T-073, p. 54. P-0481 testified that [REDACTED] spoke Arabic and did not understand Sango very well: P-0481: T-072, p. 45.
[3409] P-0481: T-072, pp. 21-22.
[3410] According to a complaint submitted by P-0481 to the *Commission Mixte d'Enquête* of the Ministry of Justice in [REDACTED], his arrest occurred at [REDACTED] on [REDACTED] 2013: complaint before the *Commission Mixte d'Enquête*, CAR-OTP-2018-0566. The Chamber also recalls that P-0481 testified that he returned to Bangui around [REDACTED] 2013 and that, upon his return, he spent [REDACTED], which is consistent with his arrest

cell with [REDACTED].[3411] The Chamber notes that the evidence shows that [REDACTED] 2013.[3412] Given P-0481's testimony that he was detained for [REDACTED] and the evidence showing that he was released on [REDACTED] 2013,[3413] the Chamber is satisfied that P-0481 was detained at the OCRB [REDACTED] 2013.

1212. P-0481 stated that his hands were tied during the first [REDACTED] of his detention at the OCRB, including when he slept.[3414] P-0481 testified that the Seleka did not give him food during his detention, but that he received food from [REDACTED], whose own relatives brought him food.[3415] P-0481 recalled that a [REDACTED] also gave him some biscuits, but stated that this did not occur on a regular basis.[3416] P-0481 stated that, '[a]fter [REDACTED]', his [REDACTED] visited him and gave him coffee.[3417]

1213. P-0481 testified that because his hands were tied, he would drink with the help of a spoon and would receive assistance from [REDACTED] in order for him (P-0481) to relieve himself.[3418] P-0481 recalled that [REDACTED] would partially undress him and he (P-0481) would sit on the bucket in the corner of the cell to relieve himself.[3419] P-0481 recalled that the bucket 'did not have a cover or a lid and there was a very bad smell inside the cell'.[3420] P-0481 gave evidence that the 'conditions were very difficult' and that he 'suffered to a great extent'.[3421] P-0481 testified that he was neither offered nor provided any medical assistance during his time in detention.[3422] P-0481 stated that, 'after the [REDACTED], the [REDACTED] came on a regular basis and that is when they untied my hands', adding that the [REDACTED] 'was the only person who provided me with any assistance'.[3423]

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having taken place in [REDACTED] 2013: P-0481: T-072, pp. 16-18; P-0622: T-071, p. 31, referring to call data records, CAR-OTP-00000685.
[3411] [REDACTED].
[3412] *See* above para. [REDACTED].
[3413] P-0481:T-072, p. 40; P-0481: T-073, pp. 20, 48. *See* below para. 1225.
[3414] P-0481: T-072, pp. 31-32.
[3415] P-0481: T-072, pp. 30-31.
[3416] P-0481: T-072, pp. 30-31.
[3417] P-0481: T-072, p. 39.
[3418] P-0481: T-072, pp. 30-31.
[3419] P-0481: T-072, p. 31.
[3420] P-0481: T-072, p. 32.
[3421] P-0481: T-072, p. 31.
[3422] P-0481: T-072, pp. 31-32, 38.
[3423] P-0481: T-072, pp. 31-32.

1214. P-0481 recalled that, during the time he was detained in the OCRB, he was aware that the Seleka were beating and torturing people that they had arrested, that they would throw water on people and he would often hear them crying.[3424] P-0481 testified that he was 'caught between life and death' and that the only thing he could do was 'be vigilant and pray'.[3425]

1215. P-0481 described one particular occasion when he saw members of the OCRB Seleka tying a number of persons using the *arbatachar* method and killing them by stabbing them in the neck, after which he and another detainee were forced to help dispose of their bodies in the Oubangui River.[3426] P-0481 testified that, on the way back to the OCRB, the Seleka members told P-0481 and the other detainee that their turn was approaching and that they would also be killed.[3427] As explained further below,[3428] the Chamber is not satisfied that the information provided by P-0481 is sufficient to establish the legal elements of the crimes charged in respect of the mistreatment of these victims. Nonetheless, the Chamber is satisfied on the basis of this evidence that P-0481 was forced to dispose of dead bodies and that members of the OCRB Seleka threatened to kill him too.

1216. P-0481 testified that on [REDACTED],[3429] Nouradine Adam asked for P-0481 to be taken out of his cell.[3430] Based on the information provided regarding the timing of this visit, the Chamber is satisfied that it occurred approximately [REDACTED] after P-0481 was detained (noting that he was detained [REDACTED][3431]).[3432]

[3424] P-0481: T-072, p. 48.
[3425] P-0481: T-073, p. 50.
[3426] P-0481: T-072, p. 43; P-0481: T-073, pp. 51-52.
[3427] P-0481: T-072, pp. 46-47.
[3428] *See* below paras [REDACTED].
[3429] P-0481: T-072, pp. 32-33, 37.
[3430] P-0481: T-072, p. 32.
[3431] *See* above para. 1212.
[3432] The Chamber notes that the exact date when Nouradine Adam came to see P-0481 was unclear from his testimony. He testified that his hands were tied for the first [REDACTED] and that the visit of Nouradine Adam occurred after his hands had been untied, [REDACTED] into his detention: P-0481: T-072, p. 32. He also testified that Nouradine Adam's visit was 'between [REDACTED]' 2013: P-0481: T-072, p. 35. In an affidavit relating to a [REDACTED] complaint he filed before the *Commission Mixte d'Enquête*, P-0481 stated that 'Nouradim' questioned him on [REDACTED] 2013 [REDACTED]: P-0481: statement before the *Commission Mixte d'Enquête* dated [REDACTED], CAR-OTP-2005-2526, at 2532. The Chamber notes that [REDACTED] 2013 was a [REDACTED]. Regarding the total duration of his detention, the Chamber notes that P-0481 testified that he was detained for [REDACTED] and that he was released on [REDACTED] 2013: P-0481: T-072, p. 40; P-0481: T-073, pp. 20, 48. The Chamber considers any inconsistency in the information he provided in this respect to be immaterial, given the significant passage of time between P-0481's testimony and the events in question.

1217. P-0481 recalled that he was surrounded by OCRB Seleka members as Nouradine Adam questioned him regarding Bozizé and his own political beliefs.[3433] P-0481 testified that he answered Nouradine Adam's questions and told Nouradine Adam that he was telling the truth and that he was not hiding any information.[3434]

1218. P-0481 stated that Nouradine Adam then withdrew to his office,[3435] at which point members of the OCRB Seleka began placing [REDACTED] on P-0481 and beat him while he was on the ground with his hands tied.[3436] P-0481 testified that he was in great pain and could not defend himself or retaliate because he was on the floor.[3437] P-0481 stated that members of the OCRB Seleka burned his hands [REDACTED].[3438] P-0481 testified that, '[t]his lasted for two or three hours. I was tortured for two or three hours'.[3439] P-0481 testified that he did not speak or utter a word, and that he was hurt and 'was just enduring a great deal of suffering inside'.[3440] Asked if anyone gave him anything to drink, P-0481 testified that the Seleka members wanted him to die, that no one took pity on him and that it was only at noon that they gave him a spoon of water.[3441] P-0481 commented on photographs, which he testified were of his hands and showed the traces and burn marks that had been caused by the burning of [REDACTED], and noted that he bore the same marks on his hands to this day.[3442]

1219. P-0481 recalled that, as they were beating him, members of the OCRB Seleka swore at him in Arabic and referred to him as a Bozizé supporter.[3443] P-0481 believed that the Seleka arrested him to harm him (P-0481), explaining that they said that he had a great deal of information about Bozizé and they wanted to know how Bozizé was managing

[3433] P-0481: T-072, pp. 32-33. P-0481 testified that Nouradine Adam asked him questions such as, [REDACTED].
[3434] P-0481: T-072, pp. 32-33.
[3435] P-0481: T-072, pp. 33-34.
[3436] P-0481: T-072, pp. 33-36.
[3437] P-0481: T-072, p. 36.
[3438] P-0481: T-072, pp. 33-35.
[3439] P-0481: T-072, p. 36.
[3440] P-0481: T-072, p. 37.
[3441] P-0481: T-072, p. 37.
[3442] P-0481: T-072, pp. 34-35, referring to photographs, CAR-OTP-2018-0639 and CAR-OTP-2018-0641. The Chamber notes that both these photographs were shown to P-0481 during his in-court testimony, during which time P-0481 recognised the photographs as being of his hands and depicting the burn marks and traces on his hands. The Chamber notes that P-0481 initially testified that he had taken the photographs, but upon further questioning by the Defence regarding the origin of the photographs and references to P-0481's prior recorded testimony (*see* CAR-OTP-2018-0530, at 0547, para. 110), P-0481 stated that investigators from the Prosecution took the photographs. The Chamber does not consider the issue of who took the photographs to be material or to otherwise impact P-0481's credibility, particularly in light of the passage of time and the nature of the events P-0481 experienced.
[3443] P-0481: T-072, pp. 36-37.

the country and why 'some personalities on their side had been killed'.[3444]

1220. P-0481 recalled that the beating stopped when Nouradine Adam returned from his office.[3445]

1221. The Defence argues that P-0481's account of being mistreated is implausible, as he did not mention it in the complaint he filed before the *Commission Mixte d'Enquête* in [REDACTED].[3446] As explained above,[3447] the Chamber considers this omission to be explicable on the basis of the witness's reluctance to provide details regarding the manner in which he was mistreated by the Seleka, the traumatic nature of the suffering he described and his emotional state when discussing the manner in which he was mistreated.[3448] The Chamber is satisfied that the witness's account of his suffering is reliable and credible.

1222. P-0481 recalled that, some time after this, a prosecutor [REDACTED] arrived with a police officer and interrogated P-0481 in an office.[3449] P-0481 testified that the prosecutor did not say anything other than that he had come to do his job.[3450] P-0481 testified that, '[a]t that point of time, he had no power. He saw me, he said nothing, and if he would utter a word, he wouldn't remain in his position', adding that '[e]veryone was actually watching out for their position' and '[e]ven if people were absolutely repulsed, they would say nothing at all'.[3451]

1223. P-0481 testified that, after the prosecutor's visit, he 'was brought to the court', where '[t]hey asked [him] questions that were rather general'.[3452] P-0481 added that '[t]here was nothing in my file of arrest' and '[t]hey were ashamed because they didn't know what to do and they couldn't actually give me the grounds of my arrest'.[3453] The Chamber notes that the date when P-0481 was actually brought to court is unclear from his testimony. In this regard, the Chamber observes that initially P-0481 stated that he was

[3444] P-0481: T-072, p. 32.
[3445] P-0481: T-072, p. 37.
[3446] Defence Closing Brief, ICC-01/14-01/21-1039-Red, paras 426, 565.
[3447] *See* above para. 105.
[3448] *See* P-0481: T-073, pp. 48-49.
[3449] P-0481: T-072, pp. 37, 39. *See also* P-0481: T-072, p. 28.
[3450] P-0481: T-072, pp. 37-38.
[3451] P-0481: T-072, p. 38.
[3452] P-0481: T-072, p. 40.
[3453] P-0481: T-072, p. 40.

presented before the court on [REDACTED] 2013,[3454] but subsequently said that he went to court on [REDACTED] 2013 and escaped on the same day.[3455] During the Defence's examination of P-0481, he was shown his prior recorded testimony wherein he stated that he was brought to court on [REDACTED] 2013, as well as a document issued by prosecutor [REDACTED] ordering P-0481's release from OCRB custody dated [REDACTED] 2013.[3456] In response, P-0481 acknowledged that he may have made mistakes regarding dates and explained that he was traumatised and suffered from memory loss.[3457] Based on the documentary evidence before it and the explanation of the witness, the Chamber is satisfied that P-0481 appeared before the court on or around [REDACTED] 2013.

1224. P-0481 testified that, while he was at the court, 'something happened in the Boy Rabe neighbourhood, or district' and the 'Seleka went to reinforce Boy Rabe and left behind two elements with me'.[3458] P-0481 testified that there was someone in the office who was [REDACTED].[3459] The witness stated that he [REDACTED].[3460] P-0481 stated that he [REDACTED], where he sought refuge.[3461] The Defence notes that the witness has a release note dated [REDACTED] 2013 signed by Prosecutor [REDACTED] and queries why he would have escaped if he were released that day anyway.[3462] P-0481 explained that the release note was drawn up by the judge and delivered to him [REDACTED].[3463] As explained above,[3464] the Chamber does not consider P-0481's testimony on this point to be inconsistent and is satisfied that, irrespective of whether he was released or took the opportunity to flee from the Seleka's custody, P-0481 left the OCRB on [REDACTED] 2013.

[3454] P-0481: T-072, p. 28.
[3455] P-0481: T-072, p. 40; P-0481: T-073, p. 20.
[3456] P-0481: T-073, p. 48, referring to statement, CAR-OTP-2018-0530, at 0548, para. 117; release note, CAR-OTP-2005-2526, at 2528.
[3457] P-0481: T-073, p. 48, wherein P-0481 testified: 'Now, as I told you, the events really go back in time. I can forget things. I spent [REDACTED] at the OCRB. If in the documents it's mentioned [REDACTED], there is a [REDACTED]. After my release, I had -- I was suffering from loss of memory. I was traumatised and it's perhaps on account of this that I've committed certain mistakes. [REDACTED].'
[3458] P-0481: T-072, p. 40.
[3459] *See also* P-0481: T-072, p. 6; P-0481: T-073, p. 5. The Chamber notes that P-0481 testified that [REDACTED].
[3460] P-0481: T-072, p. 40.
[3461] P-0481: T-072, pp. 40, 48-50.
[3462] Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 425, referring to release note, CAR-OTP-2005-2526, at 2528.
[3463] P-0481: T-073, pp. 48-49.
[3464] *See* above para. 109.

1225. As regards harm suffered,[3465] P-0481 testified that he suffered to a great extent during his detention at the OCRB and that his personal possessions were stolen.[3466]

c) Incident C

1226. In respect of Incident C, the Chamber considered P-2692's evidence as a sole victim of and witness to the events, together with documentary evidence.

1227. P-2692 testified that he is a male Christian of Gbaya ethnicity,[3467] was a [REDACTED] and lived near [REDACTED] in the 7th arrondissement.[3468]

1228. P-2692 gave evidence that on or about [REDACTED] June 2013,[3469] a group of Seleka members,[3470] [REDACTED], stopped him and [REDACTED],[3471] [REDACTED], hit [REDACTED] with the butt of a rifle,[3472] and subsequently took him (P-2692) to Camp Kassai.[3473]

1229. P-2692 described how he was treated at Camp Kassai: the Seleka members tied him up using the *arbatachar* method, hit him with a large stone on the side of the head, poured water on him and threw sharp bricks at him.[3474] He recalled the pain being unimaginable and said that his head was swollen and painful, that he suffered cuts to his ears and lost consciousness from being tied up and unable to breathe.[3475] P-2692 stated that when he woke up, he was taken to 'a Colonel', who questioned him and sent him to sleep in a

[3465] The Chamber notes the submissions of the CLRV in this regard: CLRV Closing Brief, ICC-01/14-01/21-1028-Red2, paras 133, 151.
[3466] P-0481: T-072, pp. 31, 36; P-0481: T-073, p. 42.
[3467] P-2692: CAR-OTP-2125-0922, at 0922.
[3468] P-2692: CAR-OTP-2125-0922, at 0924, paras 12, 15; *See also* P-2692: T-043, pp. 9, 18, 21.
[3469] P-2692: CAR-OTP-2125-0922, at 0924, para. 12; addendum to P-2692's prior recorded testimony, CAR-OTP-00000767, at 000002. The Chamber has considered P-2692's explanations as to how he arrived at the date that he was apprehended. P-2692 clarified that he could not recall the day of the week that the [REDACTED] took place. P-2692 stated that he was not sure of the date as he was in shock after the events but that this was his calculation. He came to the conclusion it was [REDACTED] June 2013 'by counting the number of days [he] was detained and working backwards'.
[3470] P-2692 could make out that the members of this group were Seleka as they were armed and in military uniforms: P-2692: CAR-OTP-2125-0922, at 0924, para. 14.
[3471] P-2692: CAR-OTP-2125-0922, at 0924, para. 13.
[3472] P-2692: CAR-OTP-2125-0922, at 0924, para. 14.
[3473] P-2692: CAR-OTP-2125-0922, at 0924, paras 14-16; addendum to P-2692's prior recorded testimony, CAR-OTP-00000767, at pp. 000002-000003 (stating that [REDACTED] was released), where he explained that [REDACTED] was brought to the entrance of Camp Kassai and then let go. The Chamber does not consider this inconsistency to impact the credibility of the witness's account.
[3474] P-2692: CAR-OTP-2125-0922, at 0924, para. 16.
[3475] P-2692: CAR-OTP-2125-0922, at 0924, para. 16.

dormitory with some Seleka recruits.[3476] P-2692 testified that he was bleeding from the head, the ear and his hand 'in a bad way', that the wounds on his wrists, elbows and ankles from having been tied in the *arbatachar* manner were also bleeding, and that his finger was swollen and 'felt like it was broken'.[3477]

1230. According to P-2692, he was taken to the OCRB at around 08:00 the next morning together with another person, lying face-down in the back of a vehicle.[3478] P-2692 stated that he did not know that they were going to the OCRB until they arrived there.[3479] P-2692 recalled that the Seleka members in this vehicle said that 'Christians had been ruling the country for 50 years and that now they had come to develop the country', and that they (P-2692 and his fellow detainee) were now disturbing them.[3480]

1231. P-2692 stated that, upon arrival at the OCRB, he was 'led to a Seleka sitting at a table under a tree' who he later found out was a Colonel in charge of the OCRB.[3481] According to P-2692, the 'OCRB Colonel' accused him of having '[REDACTED]', an allegation that P-2692 denied.[3482] P-2692 recalled that the 'OCRB Colonel' asked him if weapons or machetes could be found upon searching his house, to which P-2692 responded affirmatively, explaining that as a [REDACTED], he had tools and a machete.[3483] According to P-2692, he did not have any knives or weapons on him when he was arrested.[3484] P-2692 stated that the 'OCRB Colonel' then told him to call his [REDACTED] as he could be released if a ransom was paid.[3485] P-2692 recalled being at the OCRB for about three hours and 'released to get medical treatment' after [REDACTED] paid a ransom.[3486] P-2692 testified that his finger was [REDACTED] at

[3476] P-2692: CAR-OTP-2125-0922, at 0924, para. 17. As regards who this Colonel at Camp Kassai was, the Chamber notes that P-2692 stated that it was too dark to really see who this person was and did not remember the names of any of the Seleka members at Camp Kassai: P-2692: CAR-OTP-2125-0922, at 0925, paras 18-19.
[3477] P-2692: CAR-OTP-2125-0922, at 0925, para. 18.
[3478] P-2692: CAR-OTP-2125-0922, at 0925, para. 20: The witness stated he knew that this camouflage patterned army green pick-up was 'from the OCRB because it would come and go frequently from the OCRB later when [he] was detained there'.
[3479] P-2692: CAR-OTP-2125-0922, at 0925, para. 20.
[3480] P-2692: CAR-OTP-2125-0922, at 0925, para. 20.
[3481] P-2692: CAR-OTP-2125-0922, at 0925, para. 22; addendum to P-2692's prior recorded testimony, CAR-OTP-00000767, at 000003. During his witness preparation session, P-2692 was shown a photograph, CAR-OTP-2033-6871, which he recognised as the back side of the OCRB building and a tree 'where the OCRB Colonel's office was located'. P-2692 stated that he was not placed in a cell as his face was swollen and his ear and finger were also wounded: P-2692: CAR-OTP-2125-0922, at 0925, paras 21-22.
[3482] P-2692: CAR-OTP-2125-0922, at 0926, para. 22.
[3483] P-2692: CAR-OTP-2125-0922, at 0926, para. 22.
[3484] P-2692: CAR-OTP-2125-0922, at 0926, para. 22.
[3485] P-2692: CAR-OTP-2125-0922, at 0926, para. 23.
[3486] P-2692: CAR-OTP-2125-0922, at 0926, para. 23.

the hospital.[3487]

1232. The Prosecution alleges that the 'OCRB Colonel' described by P-2692 in his prior recorded testimony was Mr Said.[3488] However, the Chamber notes that P-2692 mentioned Mr Said's name for the first time during witness preparation prior to his testimony in the present case, and that he did not clearly and unambiguously state that Mr Said was the Colonel whom he had described in his prior recorded testimony.[3489] During the witness preparation session, P-2692 was unable to recognise Mr Said in a number of photographs of him, at least two of which were taken at the relevant time.[3490]

1233. While the Chamber notes that P-2692 may have had to 'look away' from the 'OCRB Colonel' in their interactions with each other,[3491] it considers that, given that P-2692 was questioned by a Colonel upon arrival at the OCRB and subsequently 'nearly every day',[3492] he could be expected to be able to identify him in a photograph. The Chamber further notes that P-2692 was able to provide a physical description of the 'OCRB Colonel' as being quite tall, fairly light-skinned and having a small beard, a description which does not readily align with other witnesses' description of Mr Said at the material time or with contemporaneous photographic evidence depicting him.[3493]

1234. The Chamber further notes that Mr Said himself was detained at the SRI/SERD for a number of weeks following the escape of the Yalo brothers on 10 June 2013 and had returned to his position in the OCRB by 27 June 2013.[3494] The Chamber cannot establish that Mr Said was in charge of the OCRB at the time that P-2692 was detained at the OCRB for the first time.

[3487] P-2692: CAR-OTP-2125-0922, at 0926, para. 25.
[3488] Prosecution Closing Brief, ICC-01/14-01/21-1027-Red, para. 139, referring, *inter alia*, to addendum to P-2692's prior recorded testimony, CAR-OTP-00000767, at 000003; photograph, CAR-OTP-2033-7175. The Prosecution further argues that the fact that this person was Mr Said and sat at a table under a tree is corroborated by Jean-Claude Sophil, P-1004, [REDACTED]. *See* Prosecution Closing Brief, ICC-01/14-01/21-1027-Red, n. [REDACTED].
[3489] Addendum to P-2692's prior recorded testimony, CAR-OTP-00000767, at 000003, referring to photograph, CAR-OTP-2033-7175.
[3490] Addendum to P-2692's prior recorded testimony, CAR-OTP-00000767, at 000004, referring to photographs, CAR-OTP-2069-3226, CAR-OTP-2069-3227, CAR-OTP-2094-2006.
[3491] P-2692: CAR-OTP-2125-0922, at 0926, para. 22.
[3492] P-2692: CAR-OTP-2125-0922, at 0927-0928, para. 31.
[3493] P-2692: CAR-OTP-2125-0922, at 0926, para. 22. *See* P-1004: CAR-OTP-2043-0536, at 0540, para. 31; P-2241: CAR-OTP-2092-3851, at 3863, para. 60; [REDACTED]; P-1429: CAR-OTP-2049-0166, at 0174, para. 49; P-2400: CAR-OTP-2104-0424, at 0432-0433, para. 41; [REDACTED]. *See also* photographs, CAR-OTP-2069-3226, CAR-OTP-2069-3227.
[3494] *See* above paras 912, 1108-1109.

1235. Having regard to the foregoing, the Chamber cannot conclude that the 'OCRB Colonel' mentioned in P-2692's testimony is Mr Said.[3495] The Chamber clarifies nonetheless that it is satisfied that the 'OCRB Colonel' mentioned by P-2692 formed part of the high-ranking OCRB Seleka members, as he appears to have been consistently present at the OCRB throughout the events described by P-2692 and was giving orders and questioning detainees.

1236. P-2692 stated that about one week after his first release, on or about [REDACTED] June 2013, two armed uniformed Seleka members came to his home and one of them, whom he recognised as a Seleka member from the OCRB, told the witness that 'his Colonel had told him to bring [the witness] in for questioning'.[3496] According to P-2692, these Seleka members brought P-2692 to Camp Kassai where he was told that he was in detention.[3497] P-2692 stated that eventually four Seleka members arrived from the OCRB and transferred P-2692 and a fellow detainee, who was a FACA member, in the boot of a large vehicle to the OCRB where they were put in a cell.[3498]

1237. P-2692 recalled that, on the following day, he saw the 'OCRB Colonel' again, who told him, without further explanation, that he had been 'arrested for security matters and for investigation'.[3499]

[3495] The Chamber notes that the Prosecution also relies on the release note provided by P-2692, which is a handwritten note titled '*Liberation*' given to P-2692 by the 'OCRB Colonel' that bears the abbreviation 'C'MSAK', signatures undersigned *'Le Colonel'*, and a phone number. *See* Prosecution Closing Brief, ICC-01/14-01/21-1027-Red, para. 144, referring to P-2692's release note, CAR-OTP-2125-0936. The Defence contests this. *See* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 429. P-2692 said that he did not see who had signed the document, and when specifically asked by the Chamber whether it was the 'OCRB Colonel', he indicated that this 'OCRB Colonel' just gave him the document: P-2692: T-043, p. 44. On the basis of P-2692's evidence, the Chamber considers that it is not clear that the person who handed him the document actually issued and signed it.
[3496] P-2692: CAR-OTP-2125-0922, at 0927, paras 26: P-2692 stated that the second arrest occurred 'about a week after his release' on [REDACTED] June 2013, on a Sunday. On this basis, the Chamber has established that his second arrest occurred on or about [REDACTED] June 2013. *See also* news article, CAR-OTP-2074-0726, at 0729, dated [REDACTED] mentioning P-2692's name and referring to his arrest on 'last Sunday'. The Chamber notes that P-2692 was shown this article and was not sure if this was the article that was written about him after what happened to him. *See* P-2692: CAR-OTP-2125-0922, at 0930, para. 43.
[3497] P-2692: CAR-OTP-2125-0922, at 0927, para. 27.
[3498] P-2692: CAR-OTP-2125-0922, at 0927, paras 27-28. The Chamber notes that this person is the same person with whom the witness had been transferred to the OCRB the first time. P-2692 later found out that this person was a former FACA. P-2692 recognised the Seleka members from the OCRB but did not know their names: addendum to P-2692's prior recorded testimony, CAR-OTP-00000767, at 000004, referring to photograph, CAR-OTP-2033-7064. During his witness preparation session, P-2692 stated that when he was kept at the OCRB for the second time, he was kept in the cell '[REDACTED] on the right side of the building', corresponding to cell [REDACTED] marked in the photograph. *See also* P-3112's OCRB Report, CAR-OTP-2062-0743, at 0864-0865; photographs, CAR-OTP-2033-7068; CAR-OTP-2033-7072; CAR-OTP-2033-7078; CAR-OTP-2033-7086.
[3499] P-2692: CAR-OTP-2125-0922, at 0927, para. 30.

1238. P-2692 stated he was not beaten during his detention but was questioned and threatened 'nearly every day by the OCRB Colonel and his men'.[3500] According to the witness, '[t]hey kept asking about [REDACTED] from Boy Rabe and wanted to know if [he] was his relative'.[3501] The Chamber notes in this regard that P-2692 [REDACTED], a public personality linked to François Bozizé at the time.[3502] P-2692 stated that, one night, OCRB Seleka members took him to [REDACTED] and told him he '[REDACTED] if [he] did not tell the truth about [REDACTED]'.[3503] P-2692 stated that he denied any connection to this individual once again and was then taken back to his cell at the OCRB.[3504]

1239. P-2692 described the cell as 'really cramped', explaining that they 'were like sardines', and had to lie on their sides 'head to toe' and 'occasionally swap with others who were sitting on a ledge that ran around the wall' to sleep.[3505] P-2692 recalled that he was 'allowed out of the cell during visiting hours and sometimes longer during the day' and was able to receive food and medication from his family, [REDACTED].[3506]

1240. P-2692 recalled witnessing several other detainees being mistreated at the OCRB, including: (i) hearing the screams of a taxi driver while he was 'beaten really badly with *chicottes*', and seeing 'wounds all over his body' when he was carried to P-2692's cell afterwards;[3507] (ii) seeing Seleka members mistreat a group of detainees by beating them 'on their backs with *chicottes*' after throwing sand and water on them;[3508] (iii) seeing prisoners with marks on their bodies showing they had been tied in the *arbatachar* way;[3509] (iv) witnessing prisoners being taken away from the OCRB in vehicles at night, never to return;[3510] and (v) hearing moaning that he thought came from prisoners who

[3500] P-2692: CAR-OTP-2125-0922, at 0927-0928, para. 31. The Defence argues that P-2692's evidence about daily interrogations and threats 'raises questions' because 'interrogations are expected in a police station', also noting that P-2692 provided no examples that would shed light on the type and basis of the threats. *See* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 433. The Chamber considers that the Defence's claim is not borne out by the evidence. In the view of the Chamber, P-2692 was clear, coherent, and provided a detailed account as regards his questioning by the OCRB Seleka on both occasions of his arrest.
[3501] P-2692: CAR-OTP-2125-0922, at 0927-0928, paras 30-31.
[3502] P-2692: CAR-OTP-2125-0922, at 0922; *see* above paras [REDACTED].
[3503] P-2692: CAR-OTP-2125-0922, at 0929, para. 35.
[3504] P-2692: CAR-OTP-2125-0922, at 0929, para. 35.
[3505] P-2692: CAR-OTP-2125-0922, at 0927, para. 29.
[3506] P-2692: CAR-OTP-2125-0922, at 0927-0928, para. 31.
[3507] P-2692: CAR-OTP-2125-0922, at 0928, para. 32.
[3508] P-2692: CAR-OTP-2125-0922, at 0928, para. 33. From the description and timing of this event, the Chamber infers that these detainees were the victims mentioned in Incident H. *See* above para. 965.
[3509] P-2692 explained that he was able to recognise that they had been tied up in this manner from the marks on his own body, on his wrists, elbows and legs: P-2692: CAR-OTP-2125-0922, at 0929, para. 34.
[3510] P-2692: CAR-OTP-2125-0922, at 0929, para. 35.

were detained in the main OCRB building.[3511]

1241. P-2692 stated that he was released from the OCRB, thanks to a [REDACTED], who was in the Seleka and was able to negotiate P-2692's release [REDACTED].[3512]

1242. P-2692 estimated that he was detained for a few weeks, but found it hard to be more precise.[3513] The Chamber notes that the release document given to P-2692 by the 'OCRB Colonel' on the day of his release is dated [REDACTED] July 2013, which is consistent with his recollection that he was detained for a few weeks after his arrest on or about [REDACTED] June 2013.[3514] Consequently, the Chamber is satisfied that P-2692 was detained at the OCRB for the second time from on or about [REDACTED] June 2013 to on or about [REDACTED] July 2013.[3515]

1243. As regards the harm P-2692 continues to suffer as a result of his detention, P-2692 stated that '[t]hose events are always in [his] mind' and, when he thinks about his detention, he 'no longer wants to live', he never really talks about it and it makes him cry.[3516] P-2692, who was a [REDACTED], added that he 'lost everything that [he] had [REDACTED]'.[3517]

d) Incident F

1244. [REDACTED] gave evidence that the killing of the prisoners (the alleged victims described in Incident F) occurred on or about [REDACTED] 2013.[3518] The Chamber

[3511] P-2692: CAR-OTP-2125-0922, at 0929, para. 36.
[3512] P-2692: CAR-OTP-2125-0922, at 0929, para. 38; P-2692: T-043, pp. 28-29. As regards P-2692's evidence of ransom payments by his relative to have him released on two occasions, the Defence argues that there is no evidence that such payments were ever made. It points to the fact that P-2692 did not know the amount and did not give any evidence to support his statements, nor did he provide any evidence to prove that the sum was intended for personal enrichment rather than for bail. *See* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 431. The Chamber recalls that it found P-2692 generally credible and sees no reason to doubt his testimony concerning the payment of an amount that he considered was a ransom. P-2692's evidence presents no ambiguity in relation to the purpose of these payments on both occasions. The Chamber also takes into account the wider context of the Seleka practice of detaining people and extorting money for their release, both at the OCRB and elsewhere. *See* above paras 618, 911.
[3513] P-2692: CAR-OTP-2125-0922, at 0927, para. 31.
[3514] P-2692: CAR-OTP-2125-0922, at 0930, para. 1, referring to P-2692's release note, CAR-OTP-2125-0936. The Chamber also notes that P-2692 testified that he witnessed the arrival of a large group of prisoners at the OCRB who had allegedly been involved in distributing leaflets and preparing a coup against Djotodia. The Chamber infers that these are the detainees who were the victims of Incident H, who arrived at the OCRB on or about 10 July 2013. *See* P-2692: CAR-OTP-2125-0922, at 0928, para. 33. *See* below para. 1290.
[3515] P-2692: CAR-OTP-2125-0922, at 0927, paras 26, 28.
[3516] P-2692: CAR-OTP-2125-0922, at 0930, para. 41; P-2692: T-043, p. 16.
[3517] P-2692: T-043, p. 18.
[3518] [REDACTED].

notes its finding that Mr Said himself was detained at the SRI/SERD from 10 June 2013 and had returned to his position in the OCRB by 27 June 2013.[3519] Therefore, the Chamber cannot establish beyond reasonable doubt that Mr Said was in charge of the OCRB at the time that these individuals were killed.

1245. In addition, the Chamber finds that [REDACTED]'s testimony was not sufficiently clear, complete and reliable to allow factual findings to be entered regarding the alleged torture of these individuals. In this regard, the Chamber was not satisfied that [REDACTED] had an unobstructed view that would have allowed him to clearly see events he described as having taken place at night, specifically the prisoners being taken out of the underground cell,[3520] and the mistreatment and killings he described.[3521] The Chamber further notes that [REDACTED]'s testimony was internally inconsistent in that he testified in court that he saw seven victims being killed while, in his prior recorded statement, he said that there were three victims.[3522] When questioned as to this discrepancy by the Defence, [REDACTED] did not, in the view of the Chamber provide a satisfactory explanation.[3523]

e) Incident G

1246. In respect of Incident G, the Chamber considered the testimony of P-2504, but concluded,

[3519] *See* above paras 1108-1109.
[3520] [REDACTED]. The Chamber notes that [REDACTED] stated that he was detained in 'cell G2' while at the OCRB: [REDACTED]. In this regard, the Chamber considers that this testimony does not conclusively identify the cell in which [REDACTED] was detained at the time of the events. The Chamber recalls that although P-3112's OCRB Report depicts cells with G numbers, including a cell with 'G2' painted on the door (*see* P-3112's OCRB Report, CAR-OTP-2062-0743, at 0855), Benjamin Mallo testified that this writing on the cells was not present in his day and was added later: P-0338: T-018, p. 42. The Chamber also observes that a number of other witnesses place G2 at a location other than where G2 is marked on the photographs presented in court: [REDACTED], referring to an annotated photograph of the cellblock to the rear of the OCRB compound, [REDACTED]; [REDACTED], referring to an annotated photograph of the cellblock to the side of the OCRB compound, [REDACTED]; [REDACTED], referring to an annotated sketch of OCRB, [REDACTED]. For these reasons, the Chamber cannot ascertain the exact location where [REDACTED] was detained. In any event, the Chamber notes that P-3112's OCRB Report shows that the underground cell was located inside the main OCRB building, to the left of the rear entrance, and therefore would not have been directly visible from the cells in the courtyard: P-3112's OCRB Report, CAR-OTP-2062-0743, at 0786 *et seq.* (graphic overview of layout of the rooms within the OCRB's main building); *see also* photographs, CAR-OTP-2033-7041, CAR-OTP-2033-7044, CAR-OTP-2033-7056, CAR-OTP-2033-7049 (a photograph of the room in which the underground cell was located). In particular, the Chamber notes that between the room in which the underground cell was located and the stairs at the main building's rear entrance was a room which would serve as an impediment to a direct line of sight to the underground cell entrance from a position situated outside the main building.
[3521] [REDACTED]. The Chamber notes that [REDACTED] estimated the distance between his cell and the wall against which the seven persons were mistreated and stabbed to be about 15 to 20 metres ([REDACTED]), stated that he was able to observe these events through a bullet-hole in the door of his cell with the help of a lamp located on the main road that lit up part of the OCRB compound ([REDACTED]).
[3522] [REDACTED].
[3523] [REDACTED].

for the reasons explained above, that his evidence was not credible.[3524] The Chamber has relied on the testimony of P-2607, who was informed of the abduction of [REDACTED] in the immediate aftermath and directly observed part of his detention at the OCRB, as well as documentary evidence regarding the death of [REDACTED].

1247. P-2607 testified that [REDACTED] was a 'FACA soldier serving in the [REDACTED],[3525] but, at the time of his 'arrest', he was in Bangui because [REDACTED].[3526] P-2607 stated that [REDACTED] had been to a 'Grand Rapport meeting' where 'his chiefs had told him that the Seleka wanted to get rid of [Bozizé]'s soldiers' and told him 'to be really careful'.[3527] P-2607 affirmed that '[REDACTED] was not going to work with the FACA in 2013'.[3528] P-2607 recalled that [REDACTED] told him that [REDACTED].[3529]

1248. P-2607 testified that, on [REDACTED] June 2013, he received a phone call informing him that [REDACTED] had been taken away by the Seleka at [REDACTED].[3530] P-2607 recalled that he was told that [REDACTED] had gone to the [REDACTED] because former FACA classmates had called and asked to meet [REDACTED].[3531] P-2607 clarified that these were the same FACA classmates who had called [REDACTED].[3532] It is apparent from P-2607's testimony that he received this information initially over the phone from a family member of [REDACTED] and subsequently from other family members and neighbours of [REDACTED] when he (P-2607) went to the family home

[3524] *See* above paras 210-217.
[3525] P-2607: CAR-OTP-2125-0855, at 0857, para. 13; P-2607: T-042, p. 41. *See also* P-2607: CAR-OTP-2125-0855, at 0860, para. 36, referring to decision removing [REDACTED] from the military list, CAR-OTP-2116-0993, and para. 38, referring to description of [REDACTED]'s military record, CAR-OTP-2116-0995, at 0995 (confirming that [REDACTED]).
[3526] P-2607 stated that [REDACTED] was deployed to [REDACTED], returned to Bangui after [REDACTED], in 2013, and was arrested and killed a month after that: addendum to P-2607's prior recorded testimony, CAR-OTP-00000751, at 000002; P-2607: T-042, pp. 41-42. The Chamber notes that P-2607's evidence is unclear as regards when [REDACTED] returned to Bangui. P-2607 testified that [REDACTED] was killed on [REDACTED] June 2013: P-2607: CAR-OTP-2125-0855, at 0857, para. 15. P-2607 stated that [REDACTED] was killed one month after he returned to Bangui: addendum to P-2607's prior recorded testimony, CAR-OTP-00000751, at 000002. P-2607 also stated that [REDACTED] was already in Bangui to '[REDACTED]' when the Seleka arrived in Bangui: addendum to P-2607's prior recorded testimony, CAR-OTP-00000751, at 000003. Given the passage of time and the traumatic nature of the events, the Chamber considers that P-2607's inability to pinpoint when [REDACTED] returned to Bangui did not impact his credibility generally. Irrespective of when [REDACTED] returned to Bangui, the Chamber is satisfied that at the time of his 'arrest' he was in Bangui because [REDACTED].
[3527] P-2607: CAR-OTP-2125-0855, at 0857, para. 13.
[3528] P-2607: CAR-OTP-2125-0855, at 0857, para. 13.
[3529] P-2607: CAR-OTP-2125-0855, at 0857, para. 14.
[3530] P-2607: T-042, pp. 13-15; P-2607: CAR-OTP-2125-0855, at 0857, paras 14-16.
[3531] P-2607: CAR-OTP-2125-0855, at 0857, para. 15; P-2607: T-042, p. 49.
[3532] Addendum to P-2607's prior recorded testimony, CAR-OTP-00000751, at 000003.

in the immediate aftermath of the incident at [REDACTED].[3533]

1249. The Chamber notes that, in his prior recorded statement, P-2607 indicated that he was present when [REDACTED] received the phone call from his FACA classmate and was with [REDACTED]'s family when a woman came to the house to tell them that [REDACTED] had been taken from [REDACTED].[3534] However, in the witness preparation session prior to his testimony, P-2607 clarified that he was not present during these events but was informed about them by persons who were present.[3535] The Chamber considers that P-2607's correction of the information regarding his perspective and location during these events reflects an effort to be accurate and truthful when testifying in court and did not undermine the credibility of his account.

1250. P-2607 testified that, after the phone call, he accompanied family members of [REDACTED] from the family home to the [REDACTED], estimating that they would have arrived there between [REDACTED], over an hour after [REDACTED] had been taken away.[3536] P-2607 stated that they spoke with 'many people' who were present at the [REDACTED] and 'received several versions of the same event'.[3537] The account that P-2607 retained from what was told to him by eyewitnesses in the immediate aftermath was as follows: [REDACTED] had been met by five persons who 'had pointed their guns at him';[3538] there was an altercation in which shots were fired into the air;[3539] [REDACTED] told the Seleka members that 'he was working for the country and not for the Seleka and that he was at home for [REDACTED]';[3540] other Seleka members from

[3533] P-2607: T-042, pp. 44-45, 49; addendum to P-2607's prior recorded testimony, CAR-OTP-00000751, at 000003. The Chamber notes that P-2607 stated that it took him an hour to walk from the location where he was when he received the phone call to the family home (addendum to P-2607's prior recorded testimony, CAR-OTP-00000751, at 000003), but testified in court that he took [REDACTED] before clarifying that there was no transport available and that they walked (P-2607: T-042, pp. 44, 48-49).
[3534] P-2607: CAR-OTP-2125-0855, at 0857-0858, paras 15-16. P-2607 stated that the lady was returning from [REDACTED]: P-2607: T-042, p. 45.
[3535] Addendum to P-2607's prior recorded testimony, CAR-OTP-00000751, at 000003; P-2607: T-042, pp. 14, 44-45.
[3536] P-2607: T-042, pp. 50-51. *See also* P-2607: T-042, p. 48, where he testified that it took him about one hour to go from the place where he was when he received the phone call to [REDACTED]'s family home.
[3537] P-2607: T-042, p. 52: P-2607 acknowledged that 'everybody [at [REDACTED]] gave us their version of what had happened' and that 'in this type of incident, everybody gives their own version of the facts and you don't really know who is telling the true version, the correct version'. P-2607 testified that he did not have the details of the people who told him this information: P-2607: CAR-OTP-2125-0855, at 0858, para. 17.
[3538] P-2607: CAR-OTP-2125-0855, at 0858, para. 17; addendum to P-2607's prior recorded testimony, CAR-OTP-00000751, at 000003.
[3539] P-2607: CAR-OTP-2125-0855, at 0858, para. 17.
[3540] P-2607: T-042, p. 13.

two vehicles had joined in;[3541] [REDACTED] was beaten with rifle butts and his hands were tied behind his back;[3542] he was put in a black vehicle, which people at [REDACTED] recognised to be 'the vehicle of Mahamat Said' in which 'he often made a patrol', and he was taken away.[3543]

1251. The Defence argues that P-2607's account of these events is not reliable, as it is entirely based on hearsay (sometimes triple and/or anonymous hearsay) and P-2607 himself was not present during the events.[3544] Although the Chamber acknowledges that the information provided by P-2607 is hearsay, he stated that he received this information from multiple eyewitnesses in the immediate aftermath of the events.[3545] Furthermore, as set out below, P-2607 was subsequently able to confirm the information that the Seleka had taken [REDACTED] to the OCRB when he (P-2607) interacted with Mr Said at the OCRB and saw [REDACTED] with his legs sticking out of a vehicle leaving the OCRB.[3546] In these circumstances, the Chamber is satisfied that the only reasonable inference based on the evidence considered as a whole is that Seleka members took [REDACTED] from [REDACTED] to the OCRB.

1252. Regarding the reason [REDACTED] was taken away, the Chamber notes that the information provided by the persons present at [REDACTED] (that there was a dispute involving the issue of [REDACTED] refusing to work for the Seleka) is consistent with the information already known by P-2607 through his direct interactions with [REDACTED] himself (that [REDACTED] was not working with the Seleka and had not resumed his duties with the FACA in Bangui).[3547] The Chamber observes that this is also consistent with the Seleka's pattern of targeting former FACA members following the coup d'état and notes that there is no evidence as to the existence of an alternative reason for the Seleka to target [REDACTED] in this way.[3548] Accordingly, the Chamber is satisfied, based on the evidence as a whole, that the Seleka took [REDACTED] to the

[3541] P-2607: CAR-OTP-2125-0855, at 0858, para. 17. P-2607 testified that the Seleka members were well-armed: P-2607: T-042, p. 18.
[3542] Addendum to P-2607's prior recorded testimony, CAR-OTP-00000751, at 000003. *See also* P-2607: T-042, pp. 13, 18.
[3543] P-2607: CAR-OTP-2125-0855, at 0858, paras 17-18; P-2607: T-042, p. 18. P-2607 stated that some of the people gathered at [REDACTED] recognised 'the vehicle of Mahamat Said' in which 'he often made a patrol': P-2607: T-042, p. 52. *See also* addendum to P-2607's prior recorded testimony, CAR-OTP-00000751, at 000003.
[3544] Defence Closing Brief, ICC-01/14-01/21-1039-Red, paras 450-451.
[3545] P-2607: T-042, p. 52.
[3546] *See* below para. 1257.
[3547] P-2607: CAR-OTP-2125-0855, at 0857, para. 13; P-2607: T-042, p. 13.
[3548] *See* above para. 632.

OCRB because he had been in the FACA and did not resume his duties following the Seleka coup d'état.

1253. P-2607 testified that he travelled on foot from [REDACTED] to the OCRB with family members of [REDACTED].[3549] According to the chronology P-2607 provided, the Chamber determines that they would have arrived at the OCRB sometime after [REDACTED].[3550]

1254. P-2607 stated that, when they reached the MOOV building next to the OCRB, armed 'Seleka elements immediately blocked the road'.[3551] P-2607 testified that they saw Mr Said's vehicle entering the OCRB compound and they were told that this was the vehicle that 'had taken a soldier who had been stopped at [REDACTED]'.[3552]

1255. P-2607 stated that Mahamat Said 'came out into the road', 'started shooting his pistol into the air', and told 'his elements in Sango' not to let P-2607 and the others through.[3553] As to how P-2607 was in a position to identify Mr Said, the Chamber notes that P-2607 worked as an auxiliary at the OCRB Damala at the time.[3554] He also testified that he had seen the OCRB vehicle patrolling near his home and that 'Mahamat [Said] was

[3549] P-2607: CAR-OTP-2125-0855, at 0858, para. 18.
[3550] P-2607: CAR-OTP-2125-0855, at 0858, para. 18; P-2607: T-042, pp. 50-52, wherein P-2607 indicates that [REDACTED] was taken at [REDACTED], that P-2607 reached the family home of [REDACTED] about one hour later at [REDACTED] and that the journey to the OCRB took them about two hours from when they left the family home.
[3551] P-2607 stated that the Seleka blocked the road because P-2607 and his family 'must have been recognised': P-2607: CAR-OTP-2125-0855, at 0858, para. 19; addendum to P-2607's prior recorded testimony, CAR-OTP-00000751, at 000003. P-2607 also testified that members of the Seleka (who were blocking the road) threatened P-2607 (and the others) and told them that they could not go to the OCRB: P-2607: CAR-OTP-2125-0855, at 0858, para. 20. P-2607 initially testified that he did not know any of the Seleka members who blocked their route to the OCRB: P-2607: CAR-OTP-2125-0855, at 0858, para. 19. P-2607 subsequently stated that he and his family were recognised by the Seleka members because [REDACTED], and that 'there were also former comrades' of [REDACTED] who knew P-2607's family: addendum to P-2607's prior recorded testimony, CAR-OTP-00000751, at 000003. When shown a wide-angled shot taken from the nearby crossroads, CAR-OTP-2033-7326, P-2607 did not recognise the compound of the OCRB, but recognised it in close-up photographs of the compound's gate, CAR-OTP-2033-6802, CAR-OTP-2033-7337. *See* addendum to P-2607's prior recorded testimony, CAR-OTP-00000751, at 000005.
[3552] P-2607: T-042, p. 15. The Defence argues that this testimony is implausible, as [REDACTED] would have been taken directly to the OCRB from [REDACTED] and P-2607 arrived there more than three hours later: Defence Closing Brief, ICC-01/14-01/21-1039-Red, paras 453-454, Defence Closing Brief, ICC-01/14-01/21-1039-Conf, paras 453-454. The Chamber notes that there was no indication in P-2607's testimony that [REDACTED] was in the vehicle at the time; he simply noted the arrival of the vehicle and recalled being informed that this was the vehicle that had taken a 'soldier' from [REDACTED].
[3553] P-2607: CAR-OTP-2125-0855, at 0858, para. 20; addendum to P-2607's prior recorded testimony, CAR-OTP-00000751, at 000004.
[3554] P-2607: T-042, pp. 33-34, referring to addendum to P-2607's prior recorded testimony, CAR-OTP-00000751, at 000001. The Chamber is satisfied that P-2607's correction and clarification regarding [REDACTED] does not impact his credibility. [REDACTED]: P-2607: CAR-OTP-2125-0855, at 0857, para. 12; P-2607: T-042, p. 26.

sometimes in this vehicle on patrol' and that '[p]eople used to say who he was, a chief, a *Kotazo*'.[3555] During his preparation session prior to his in-court testimony, P-2607 was able to correctly recognise Mr Said in a photograph.[3556] The Chamber is satisfied based on this evidence that P-2607 was in a position to recognise and identify Mr Said.

1256. According to P-2607, Mahamat Said told P-2607 and his group that they did not know why [REDACTED] was there and that they should not be there.[3557] P-2607 testified that, while they were outside the OCRB, Mr Said spoke with some Seleka members and some of them ran into the OCRB compound.[3558] P-2607 stated that, a little later, while Mr Said remained on the street, a vehicle with 'OCRB' written on the side left the OCRB compound and went towards the Palais de la Renaissance.[3559] P-2607 recalled seeing [REDACTED] in the vehicle with his hands tied behind his back and his legs sticking out of the back of the vehicle.[3560]

1257. P-2607 stated that they subsequently heard shots being fired and that he was crying and trying to get past the Seleka members.[3561] He testified that Mahamat Said told him that, since he (P-2607) was stubborn, the Seleka 'could bring [him] and [he] will see [himself] what [he] wanted to see', which P-2607 perceived as a threat.[3562] P-2607 stated that he feared that he would be killed and told [REDACTED] that it was important for them 'to get away, because the situation was already very tricky', that they 'didn't know what bad act [[REDACTED]] had committed' and whether this was a 'military affair or something else'.[3563] The Chamber notes that P-2607's reaction at the time appears to have been based on fear and speculation as to the reason for [REDACTED]'s arrest. The Chamber

[3555] P-2607: CAR-OTP-2125-0855, at 0857, para. 14; addendum to P-2607's prior recorded testimony, CAR-OTP-00000751, at 000004.
[3556] P-2607 recognised Mr Said in a photograph as the first person on the far left in a stained khaki military uniform: addendum to P-2607's prior recorded testimony, CAR-OTP-00000751, at 000005, referring to photograph, CAR-OTP-2069-3226. *See* above para. 6.
[3557] P-2607: CAR-OTP-2125-0855, at 0858, para. 20; addendum to P-2607's prior recorded testimony, CAR-OTP-00000751, at 000004.
[3558] P-2607 stated that he could not hear what Said 'said to his elements': P-2607: CAR-OTP-2125-0855, at 0858, para. 21.
[3559] P-2607: CAR-OTP-2125-0855, at 0858, para. 21; addendum to P-2607's prior recorded testimony, CAR-OTP-00000751, at 000004.
[3560] P-2607: CAR-OTP-2125-0855, at 0858, para. 21. P-2607 noted that [REDACTED] was no longer wearing the sandals in which he left the house (CAR-OTP-2125-0855, at 0858, para. 21) and that he was wearing 'tracksuit trousers' (which he thought were blue) and a red T-shirt that [REDACTED] (addendum to P-2607's prior recorded testimony, CAR-OTP-00000751, at 000004; P-2607: T-042, p. 16).
[3561] P-2607: CAR-OTP-2125-0855, at 0858-0859, para. 22; P-2607: T-042, p. 16.
[3562] P-2607: CAR-OTP-2125-0855, at 0858-0859, para. 22; P-2607: T-042, p. 16.
[3563] P-2607: CAR-OTP-2125-0855, at 0859, para. 22; P-2607: T-042, p. 16.

does not consider this to have any impact on its determination that [REDACTED] was taken to the OCRB because he was in the FACA and because he had not resumed his duties. In particular, the Chamber notes that P-2607 stated that [REDACTED] had never told them about military affairs or other activities that might justify his arrest.[3564] P-2607 stated that the Seleka members shot in the air to disperse the crowd and that his group 'ran back to PK0 and fled home'.[3565]

1258. P-2607 testified that, the next day, on [REDACTED] June 2013, a neighbour informed [REDACTED]'s family that [REDACTED]'s body had been found in the morgue of the Hôpital Communautaire.[3566] According to P-2607, when they found [REDACTED]'s body at the morgue, he 'appeared to have been shot in the head as there was blood coming out of the side of his head'.[3567] He stated that the morgue guard told them that 'the Red Cross had collected the body at [REDACTED] the night before', and that [REDACTED] was 'apparently found in a drainage ditch behind the Palais de la Renaissance'.[3568] The Chamber notes P-2607's testimony that the vehicle in which he saw [REDACTED] being taken out of the OCRB the night before was travelling towards the Palais De La Renaissance. [3569]

1259. [REDACTED]'s death certificate, issued on [REDACTED] June 2013, puts the time of his death at [REDACTED] June 2013.[3570] The declaration of death issued by the Hôpital Communautaire in Bangui on [REDACTED] 2013 also indicates that [REDACTED] was

[3564] P-2607: T-042, p. 16.
[3565] P-2607: CAR-OTP-2125-0855, at 0859, paras 22-23. *See also* P-2607: T-042, pp. 16, 52-53. The Chamber notes that P-2607 indicated that he would have arrived home at about [REDACTED], which is not consistent with the timeline he provided of his journey between the various locations visited that afternoon/evening. The Chamber does not consider minor discrepancies in the witness's recollection of the timing of these events to impact the credibility or reliability of his account as a whole.
[3566] P-2607: CAR-OTP-2125-0855, at 0859, paras 23-24; P-2607: T-042, pp. 53-54. P-2607 was shown register, CAR-OTP-2044-0573, at 0631, by the OTP investigators, who described the document as the morgue register, but P-2607 did not recognise any names or signatures on the photograph: P-2607: CAR-OTP-2125-0855, at 0860, para. 32; addendum to P-2607's prior recorded testimony, CAR-OTP-00000751, at 000004.
[3567] P-2607: CAR-OTP-2125-0855, at 0859, para. 24.
[3568] P-2607: CAR-OTP-2125-0855, at 0859, para. 24. *See also* P-2607: T-042, p. 55.
[3569] P-2607: CAR-OTP-2125-0855, at 0858, para. 21; addendum to P-2607's prior recorded testimony, CAR-OTP-00000751, at 000004.
[3570] [REDACTED]'s death certificate, CAR-OTP-2116-0992. *See* P-2607: CAR-OTP-2125-0855, at 0860, para. 35. P-2607 clarified that the name of his father on the death registration document is '[REDACTED]' because at the birth of [REDACTED], his paternal uncle who is called [REDACTED] had decided that [REDACTED] would be his son, so [REDACTED] was given the name '[REDACTED]' even though his real father is [REDACTED]. *See* addendum to P-2607's prior recorded testimony, CAR-OTP-00000751, at 000004; P-2607: T-042, pp. 55-57. P-2607 confirmed that it was his name written on the death certificate but stated it was his father who 'was the one who went there to ask for this document to be issued, then he gave it to me': P-2607: T-042, pp. 55-57.

brought to the hospital at [REDACTED] June 2013 (the day that he was arrested) and was dead on arrival, with the cause of death indicated as cranial trauma caused by gunshot ('*traumatisme cranier par balle*').[3571]

1260. The Defence argues that documentary evidence of [REDACTED]'s death is inconsistent with the testimony of P-2607 regarding the time of his death,[3572] and emphasises that there is no record of his death in the record of the hospital morgue concerned and that the Prosecution made no effort to identify where his body was buried or carry out forensic testing to establish the cause of death.[3573] The Chamber notes that P-2607 stated that his family had been provided a copy of the declaration of death from the hospital the day after [REDACTED]'s death, when they saw his body in the morgue and later buried him.[3574] The declaration of death appears to be dated [REDACTED] 2013, which means that either the date of the document was incorrectly recorded or P-2607's recollection of the time the document was obtained is incorrect.[3575] The Defence also questioned P-2607 on why the time and date of [REDACTED]'s admission to the hospital recorded in the death certificate was the same as the purported time and date of his death on the declaration of death (*i.e.*, [REDACTED] June 2013),[3576] and why [REDACTED], as it was the latter who had requested the certificate.[3577] The Chamber does not consider these minor discrepancies in the times recorded on these documents or P-2607's recollection as to when and how they were obtained to be significant to its overall assessment. On the whole, the Chamber is satisfied that the death certificate and the declaration of death support P-2607's testimony that [REDACTED] was killed by gunshot wound on [REDACTED] June 2013.

1261. While there is no information regarding [REDACTED]'s death in the morgue register

[3571] Declaration of death of [REDACTED], CAR-OTP-2116-0994, which records the cause of death as cranial trauma caused by gunshot ('*traumatisme cranier par balle*'). *See also* P-2607: CAR-OTP-2125-0855, at 0860, para. 37; addendum to P-2607's prior recorded testimony, CAR-OTP-00000751, at 000004.
[3572] Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 461. The Chamber notes that there is a discrepancy between the account provided by P-2607 as to the timing of the events that he witnessed at the OCRB (according to which [REDACTED] would have been killed sometime after [REDACTED]) and the declaration of death and death certificate (which record the time of [REDACTED]'s arrival at the hospital as [REDACTED]).
[3573] Defence Closing Brief, ICC-01/14-01/21-1039-Red, paras 460-464.
[3574] Addendum to P-2607's prior recorded testimony, CAR-OTP-00000751, at 000004.
[3575] P-2607: T-042, pp. 59-60.
[3576] P-2607: T-042, pp. 57-59, referring to declaration of death of [REDACTED], CAR-OTP-2116-0994. P-2607 clarified that the death certificate was completed on the basis of the declaration of death issued by the hospital, although the declaration of death is dated [REDACTED] 2013 and the death certificate is dated [REDACTED] June 2013. Thus either the date of the declaration of death was incorrectly recorded, or P-2607's recollection of how the documents were obtained is incorrect.
[3577] P-2607: T-042, pp. 55-56, referring to [REDACTED] death certificate, CAR-OTP-2116-0992.

itself,[3578] the Chamber observes that the morgue register kept at the time was not exhaustive. In this regard, the Chamber notes that names of victims that did not appear in the morgue register were recorded in a list of bodies admitted to the Hôpital Communautaire morgue from March to July 2013 [REDACTED].[3579] In these circumstances, the Chamber is satisfied that the absence of information regarding [REDACTED]'s death in the morgue register does not undermine the other evidence regarding his death.

1262. Finally, the Chamber notes the Defence's argument that documentary evidence of [REDACTED]'s military record states in a note (added on 31 July 2014) that [REDACTED] died on 25 November 2013 from an illness.[3580] P-2607 stated in April 2021, during his interview with the Prosecution investigators, that this was an error and he would try to get it corrected.[3581] Subsequently, during his preparation session, P-2607 mentioned that he had tried to get this corrected but had not received an update about it.[3582] During his testimony in court, P-2607 stated that his [REDACTED] had passed away and no correction was made to the document because they did not know what procedure to follow.[3583] The Defence noted this inconsistency in its closing brief.[3584] The Chamber is satisfied on the basis of P-2607's testimony that he saw [REDACTED]'s body in the morgue on [REDACTED] June 2013 and that he appeared to have been shot in the head,[3585] as well as on the basis of the documentary evidence recording his death on [REDACTED] June 2013,[3586] that the information recorded on [REDACTED]'s military record is not reliable.

1263. As regards the harm suffered by [REDACTED]'s family members, the Chamber notes the emotional impact that this would have had and further notes the economic impact on

[3578] P-2607 was shown register, CAR-OTP-2044-0573, at 0631, by the OTP investigators, who described the document as the morgue register, but P-2607 did not recognise any names or signatures on the photograph: P-2607: CAR-OTP-2125-0855, at 0860, para. 32; addendum to P-2607's prior recorded testimony, CAR-OTP-00000751, at 000004.
[3579] [REDACTED] list of victims admitted to morgue at the Hôpital Communautaire prepared by [REDACTED].
[3580] Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 463, Defence Closing Brief, ICC-01/14-01/21-1039-Conf, para. 463, referring to the description of [REDACTED]'s military record, CAR-OTP-2116-0995. *See* P-2607: CAR-OTP-2125-0855, at 0860, para. 38.
[3581] P-2607: CAR-OTP-2125-0855, at 0860, para. 38.
[3582] Addendum to P-2607's prior recorded testimony, CAR-OTP-00000751, at 000005.
[3583] P-2607: T-042, p. 64.
[3584] Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 463, Defence Closing Brief, ICC-01/14-01/21-1039-Conf, para. 463.
[3585] P-2607: CAR-OTP-2125-0855, at 0859, para. 24.
[3586] [REDACTED]'s death certificate, CAR-OTP-2116-0992; declaration of death of [REDACTED], CAR-OTP-2116-0994.

his family, as he had been supporting them financially.[3587]

f) Incident H

1264. In respect of Incident H (the 'Flyers Incident'), the Chamber considered the evidence of P-0358, P-1180, P-1743, P-2263 and P-2295, who witnessed the events, as well as documentary evidence related to their detention and court proceedings.[3588]

1265. As further explained in the analysis below, the testimony of P-0358, P-1180, P-1743, P-2263 and P-2295 concerns the 'arrest' and detention of a number of persons by the Seleka on 4 July 2013,[3589] in connection with the distribution of flyers calling for a '*ville morte'* in Bangui.[3590] Notwithstanding that the confirmed charges relate to a group of 16 detainees,[3591] the Prosecution Closing Brief asserts that at least 19 persons were detained

[3587] P-2607: T-042, pp. 43, 63, 74-75.
[3588] Prosecutor's register, CAR-OTP-2008-2415; register of the *Tribunal de Grande Instance* in Bangui, CAR-OTP-2135-3202; records of court hearings, CAR-OTP-2136-0699, CAR-D33-0015-4230; procedural documents, CAR-OTP-2135-3192; [REDACTED], CAR-OTP-2130-8377; [REDACTED], CAR-OTP-2091-0041, at 0041-0042; orders of release, CAR-OTP-2043-0515, CAR-OTP-2091-3191; CAR-OTP-2091-0041, at 0043; CAR-OTP-00025571, at 00013; CAR-OTP-2043-0479, at 0480; release certificates, CAR-OTP-2089-1242; CAR-OTP-2091-3192.
[3589] P-1180: CAR-OTP-2043-0483, at 0487, para. 27; P-1743: T-086, p. 28; P-2263: CAR-OTP-2089-1229, at 1231, para. 13. P-0358 stated that the incident took place in July 2013: P-0358: CAR-OTP-2043-0433, at 0444, para. 80. The Chamber notes P-2295's testimony that he was 'arrested' on a Saturday, noting that the date of 4 July 2013 corresponds to a Thursday. As P-2295 was detained on the same day as the other detainees, the Chamber finds that P-2295's 'arrest' also occurred on 4 July 2013, and attributes this inconsistency between the witnesses' accounts, as well as the lack of specificity given by P-2295 in relation to the date, to a lapse in his memory. *See* P-2295: CAR-OTP-2130-9460, at 9462, para. 12. The fact that P-2295 was 'arrested' on the same day as the other detainees is confirmed by P-1180's account: P-1180: CAR-OTP-2043-0483, at 0501, para. 134.
[3590] P-1180: CAR-OTP-2043-0483, at 0507-0508, paras 174-190; P-1743: T-086, pp. 35-36; P-1743: T-087, pp. 9-10, [REDACTED], CAR-OTP-2091-0041, at 0041; P-1743: T-087, pp. 20-23, referring to list of contributions, CAR-OTP-2130-8377; records of court hearings, CAR-OTP-2136-0699, at 0703, 0705, 0729, CAR-D33-0015-4230, at 4265, 4267, 4291; register of the *Tribunal de Grande Instance* in Bangui, CAR-OTP-2135-3202, at 3232-3236. The Chamber notes that there are other persons who were apprehended in relation to this incident but who were not detained for the entire period of the events. *See, for example*: P-0358 testified that he was released on the same day he was apprehended: P-0358: CAR-OTP-2043-0433, at 0446, para. 90. Witnesses stated that additional persons who were arrested on the same day were killed before the witnesses were taken to Camp de Roux: P-1180: CAR-OTP-2043-0483, at 0497-0498, paras 102-103; P-2263: CAR-OTP-2089-1229, at 1236, paras 47-49. According to the witnesses, [REDACTED] was released before the detainees' transfer to the OCRB: P-2263: CAR-OTP-2091-3074, at 3078, para. 18; P-1180: CAR-OTP-2043-0483, at 0504-0505, paras 151, 158. Consequently, the Chamber has only considered the relevant 16 individuals who were detained at the OCRB: [REDACTED] (the 'First Detainee', P-1180), [REDACTED] (the 'Second Detainee'), [REDACTED] (the 'Third Detainee'), [REDACTED] (the 'Fourth Detainee'), [REDACTED] (the 'Fifth Detainee'), [REDACTED] (the 'Sixth Detainee'), [REDACTED] (the 'Seventh Detainee'), [REDACTED] (the 'Eighth Detainee', P-1743), [REDACTED] (the 'Ninth Detainee'), [REDACTED] (the 'Tenth Detainee', [REDACTED]), [REDACTED] (the 'Eleventh Detainee'), [REDACTED] (the 'Twelfth Detainee'), [REDACTED] (the 'Thirteenth Detainee', [REDACTED]), [REDACTED] (the 'Fourteenth Detainee'), [REDACTED] (the 'Fifteenth Detainee') and [REDACTED] (the 'Sixteenth Detainee'). The Chamber notes that the spelling of the individuals' names varies slightly across the different pieces of testimonial and documentary evidence, which includes court records and other procedural documents. Nonetheless, the Chamber considers that the different spellings refer to the same 16 individuals.
[3591] Confirmation of Charges Decision, ICC-01/14-01/21-218-Conf, p. 56, para. 29(h).

at the OCRB in relation to this incident.[3592] The Chamber notes that the charges were confined to 16 individuals and that, in any event, its analysis of the evidence does not support the finding that the three additional individuals named by the Prosecution in its Closing Brief were victims of this Incident.[3593] Consequently, the evidentiary analysis below corresponds to the detention of 16 people as originally alleged.

i. Circumstances leading to the detention of individuals associated with the flyers

1266. P-1180 (the First Detainee) stated that he is a Christian of [REDACTED] ethnicity and that he was working at the [REDACTED] in Bangui at the time of his arrest.[3594] P-1180 testified that he was apprehended on the morning of 4 July 2013.[3595] P-1180 stated that a secretary at the [REDACTED] in Bangui handed P-1180 a piece of paper and some money and asked him to make four copies at a print shop nearby.[3596] P-1180 recalled that he did not look at the contents of the paper, because he was in a hurry.[3597]

1267. P-1180 stated that, after he had printed the copies, 'a man in civilian clothes snatched' the papers from him.[3598] According to P-1180, the man wrestled him to the ground when P-1180 tried to retrieve them and the man's 'bodyguards' struck P-1180 on the back with the butt of an AK-47.[3599] P-1180 testified that the man told P-1180 that he had finally

[3592] Prosecution Closing Brief, ICC-01/14-01/21-1027-Red, para. 159.
[3593] Prosecution Closing Brief, ICC-01/14-01/21-1027-Red, para. 159, n. 714, 716. Having considered all of the evidence on the record, the Chamber finds that one of the additional named persons, [REDACTED], was released before the detainees were transferred to the OCRB, and that another, Constantin, is referenced by only one witness as being a fellow detainee in Ngaragba prison and is otherwise not mentioned as having been present at the OCRB. As to the third additional person named, [REDACTED], the Chamber finds that this is a variation in the spelling of the name of the Third Detainee ([REDACTED]), whose name also appears in various items of evidence as [REDACTED] and [REDACTED]. The Chamber bases this finding on the fact that none of the lists of detainees in evidence refers to two persons named [REDACTED] or in fact to any other additional person beyond the 16 detainees identified above. *See* register of the *Tribunal de Grande Instance* in Bangui, CAR-OTP-2135-3202, at 3232-3236; list provided by P-2263, CAR-OTP-2091-3092; [REDACTED] CAR-OTP-2091-0041, at 0041-0042; list of contributions, CAR-OTP-2130-8377.
[3594] P-1180: CAR-OTP-2043-0483; P-1180: CAR-OTP-2043-0483, at 0487, para. 25.
[3595] P-1180: CAR-OTP-2043-0483, at 0487, para. 27; P-1180: T-068, p. 66. The Chamber notes that the witness indicated in his prior recorded statement that he finished work at about 11.30 and was apprehended thereafter and in his in-court testimony he stated that he was apprehended between 10:00 and 11:00 in the morning. The Chamber finds that this does not affect P-1180's testimony that he was arrested by the Seleka on 4 July 2013.
[3596] P-1180: CAR-OTP-2043-0483, at 0487, paras 27-28. The information provided by P-1180 as to the circumstances in which he was arrested by the Seleka Colonel corresponds to statements he gave at the time: P-1180's *procès-verbal*, CAR-OTP-2135-3192, at 3196; records of court hearings, CAR-OTP-2136-0699, at 0713-0714, CAR-D33-0015-4230, at 4275-4276. *See also* P-0358: CAR-OTP-2043-0433, at 0444-0445, paras 80-81.
[3597] P-1180: CAR-OTP-2043-0483, at 0487, para. 28.
[3598] P-1180: CAR-OTP-2043-0483, at 0487, para. 30.
[3599] P-1180: CAR-OTP-2043-0483, at 0487, para. 30.

caught the person who was distributing the flyers.[3600] P-1180 stated that he realised that the man was a Seleka Colonel,[3601] and that he tried to explain that he did not know what was written on the paper and that its rightful owner was at the [REDACTED].[3602] P-1180 testified that the Colonel threatened him,[3603] and ordered him as well as [REDACTED] (the Second Detainee) to get into a pick-up truck.[3604] P-1180 stated that a Seleka guard seized their belongings and told them to lie down on their backs as they drove off.[3605]

1268. P-1180 recalled that the Colonel told him that the flyer was calling for a '*ville morte*', which in Bangui, according to P-1180, referred to a peaceful protest in which all activities stop and everyone stays at home.[3606] In this context, the Chamber takes note of a press release signed by Nouradine Adam and dated 4 July 2013, stating that ill-intentioned persons had been circulating rumours aiming to incite citizens to civil disobedience and violence, likely to undermine the physical integrity and free movement of persons.[3607] The press release warned those involved to immediately cease such efforts, noting that anyone apprehended would be subject to judicial proceedings in conformity with the laws in force in CAR.[3608]

1269. P-1180 testified that the Colonel took him and the Second Detainee to Camp de Roux, noting that the Seleka guards beat them as they exited the vehicle.[3609] P-1180 recalled

[3600] P-1180: CAR-OTP-2043-0483, at 0488, para. 31.
[3601] P-1180 explained that he realised the person apprehending him was a Seleka leader, 'as only the Seleka could behave that way at the time' and the Seleka members were calling him '*mon Colonel*': P-1180: CAR-OTP-2043-0483, at 0488, para. 33. P-1180 recalled that the Seleka Colonel was wearing civilian clothes and carried a handgun; he was accompanied by 'six armed militants', who were wearing military uniforms or 'a mismatch of uniform and civilian wear all together': P-1180: CAR-OTP-2043-0483, at 0487-0488, paras 30-34.
[3602] P-1180: CAR-OTP-2043-0483, at 0488, para. 31.
[3603] P-1180 testified that the Colonel told the Seleka members accompanying him to shoot P-1180 if he made another move and told P-1180 that he would be harmed if he refused to get into the back of his pick-up truck: P-1180: CAR-OTP-2043-0483, at 0488, paras 33, 35.
[3604] Evidence that the Second Detainee was apprehended at the same time as P-1180 is supported by the record of the hearings which took place later: records of court hearings, CAR-OTP-2136-0699, at 0712-0713, CAR-D33-0015-4230, at 4274-4275. P-1180 described the vehicle as an 'un-plated white BJ75 pick-up truck, with no signs on it': P-1180: CAR-OTP-2043-0483, at 0488, para. 34.
[3605] P-1180: CAR-OTP-2043-0483, at 0489, para. 38.
[3606] P-1180 added that at the time 'people were upset with the lack of security under the Seleka and the non-payment of salaries for civil servants': P-1180: CAR-OTP-2043-0483, at 0488, paras 31-32. P-1743 explained that the term refers to a 'dead city' and that the protest was organised 'because of the Sudanese and Chadian mercenaries which have to be expelled from our country.': P-1743: T-087, pp. 28, 52. The existence of an organised action is confirmed by the testimony of P-2295, who heard from people on the street that 'on Monday there would be a strike and people would not go to work': P-2295: CAR-OTP-2130-9460, at 9462, paras 12-13.
[3607] Press release, CAR-OTP-2034-2344, at 2344.
[3608] Press release, CAR-OTP-2034-2344, at 2345.
[3609] P-1180 testified that he knew that they were in Camp de Roux because the Seleka members informed him that he and another detainee would be taken back there for interrogations: P-1180: CAR-OTP-2043-0483, at 0489,

that they were introduced to a Seleka General, who interrogated them, said that they were 'Bozizé's men, trying to topple the government' and ordered that they be beaten.[3610] P-1180 explained that the Seleka members beat them and the General asked again about the identity of those who had sent them.[3611] He testified that the Colonel then ordered the Seleka guards to put the Second Detainee in a cell, and took P-1180 back to the [REDACTED], accompanied by approximately 10 Seleka members.[3612]

1270. P-1180 recalled that the Seleka members asked him to show them the secretary who had given him the flyer, and, as the secretary was not at the [REDACTED], asked for her supervisor, [REDACTED].[3613] P-0358, [REDACTED], testified that [REDACTED] then called him and when P-0358 went to meet him, P-0358 was also interrogated about the flyers.[3614] P-1180 and P-0358 stated that the Seleka members then took P-1180, together with the secretary's supervisor, [REDACTED], and P-0358, back to Camp de Roux.[3615] P-1180 testified that the General claimed that Bozizé had sent them and accused them of using the paper to incite people and of trying to overthrow the government.[3616] P-1180 and P-0358 stated that they were interrogated about the flyer, but they denied knowing anything about it.[3617] P-1180 and P-0358 testified that the Seleka then released P-0358, but they kept P-1180 and [REDACTED] in detention so that they could continue their investigation.[3618] P-0358 stated that he advised the Seleka before leaving that the two other men should not have any marks of torture on them when they left and that he was told by the Seleka member who drove him back to his place of work that his intervention had saved the lives of the two men.[3619] P-0358 stated that, as soon as he returned to the [REDACTED], [REDACTED] hired a lawyer to follow up with the authorities, so that

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0491, paras 40, 51. P-1180's account of being apprehended and transported to Camp de Roux is corroborated by P-0358, who testified that P-1180 and the owner of the photocopier were apprehended and taken to Camp de Roux: P-0358: CAR-OTP-2043-0433, at 0445, para. 82.

[3610] P-1180 assumed this person was a General because the Colonel who apprehended P-1180 referred to him as such: P-1180: CAR-OTP-2043-0483, at 0489, paras 42-43.

[3611] P-1180: CAR-OTP-2043-0483, at 0490, para. 44.

[3612] P-1180: CAR-OTP-2043-0483, at 0490, paras 45, 48-49. P-0358 confirmed that P-1180 was brought back to [REDACTED] after he was initially taken by the Seleka: P-0358: CAR-OTP-2043-0433, at 0445, paras 82-83.

[3613] P-1180: CAR-OTP-2043-0483, at 0490, paras 49-50. *See also* P-0358: CAR-OTP-2043-0433, at 0445, para. 83.

[3614] P-0358: CAR-OTP-2043-0433, at 0445, para. 83.

[3615] P-1180: CAR-OTP-2043-0483, at 0490-0491, paras 50-52; P-0358: CAR-OTP-2043-0433, at 0445, para. 85. Evidence that [REDACTED] was also taken to be detained by the Seleka is supported by the record of the hearings which took place later: records of court hearings, CAR-OTP-2136-0699, at 0727; CAR-D33-0015-4230, at 4289.

[3616] P-1180: CAR-OTP-2043-0483, at 0491, para. 54.

[3617] P-1180: CAR-OTP-2043-0483, at 0491, paras 53, 55; P-0358: CAR-OTP-2043-0433, at 0446, paras 88-89.

[3618] P-1180: CAR-OTP-2043-0483, at 0491, para. 55; P-0358: CAR-OTP-2043-0433, at 0446, paras 90, 92.

[3619] P-0358: CAR-OTP-2043-0433, at 0446, paras 90, 92.

the Seleka could not simply get rid of [REDACTED] and P-1180.[3620] He stated that the lawyer was able to follow their files through the courts.[3621]

1271. P-1180 testified that [REDACTED] remained at Camp de Roux and that the Colonel put P-1180 in the truck again and went around taking 'any men he could find to bring back to Camp de Roux with the same allegations'.[3622] According to P-1180, when they arrived on Avenue Boganda just past PK0, the Colonel asked a man to pick up a paper from the ground and 'then ordered his guards to arrest that man' (the Third Detainee), seemingly looking for an excuse to 'arrest' him without alerting other civilians.[3623] P-1180 stated that the Colonel searched students at the Université de Bangui, as well as people on the street and in the photocopier kiosks at the Benz-Vi intersection in the 5th arrondissement, but was unable to find anything.[3624] P-1180 testified that the Colonel then drove to the SICA neighbourhood, where he asked a passer-by to show him the piece of paper he had in his hand, and although the man explained that it was a copy of his birth certificate, the Colonel apprehended him.[3625]

1272. P-1180 stated that the Colonel next stopped at Combattant market, where he called a man from the street over and apprehended him, as well as four other people who intervened, including P-1743 (the Fourth, Fifth, Sixth, Seventh, and Eighth Detainees).[3626] P-1180 added that another person (the Ninth Detainee) was also arrested at the market at the same time.[3627]

1273. P-1743 (the Eighth Detainee) provided further details about the circumstances in which the Seleka apprehended him and the Fifth Detainee at [REDACTED] at

[3620] P-0358: CAR-OTP-2043-0433, at 0446, para. 93.
[3621] P-0358: CAR-OTP-2043-0433, at 0447, para. 94. The records of the *Tribunal de Grande Instance* show that the lawyer [REDACTED] represented a number of the accused during the trial: records of court hearings, CAR-OTP-2136-0699, at 0703-0704; CAR-D33-0015-4230, at 4265-4266.
[3622] P-1180: CAR-OTP-2043-0483, at 0491-0493, paras 57, 59-70.
[3623] P-1180: CAR-OTP-2043-0483, at 0492, para. 60. P-1180's account of the circumstances of the arrest of the Third Detainee is corroborated by the statement given by the Third Detainee during the subsequent trial: records of court hearings, CAR-OTP-2136-0699, at 0719-0721; CAR-D33-0015-4230, at 4281-4283.
[3624] P-1180: CAR-OTP-2043-0483, at 0492, paras 61-62.
[3625] P-1180 testified that he did not know the name of the man as he never saw him again: P-1180: CAR-OTP-2043-0483, at 0492, para. 63.
[3626] P-1180: CAR-OTP-2043-0483, at 0492-0493, paras 64-68. Evidence that the Fourth, Fifth, Sixth, Seventh, and Eighth Detainees were taken to be detained by the Seleka is supported by the record of the hearings which took place later: records of court hearings, CAR-OTP-2136-0699, at 0709-0710, 0715-0718, 0721-0722, 0724-0725; CAR-D33-0015-4230, at 4271-4272, 4277-4280, 4283-4284, 4286-4287.
[3627] P-1180: CAR-OTP-2043-0483, at 0493, para. 69. Evidence that the Ninth Detainee was taken to be detained by the Seleka is supported by the record of the hearings which took place later: records of court hearings, CAR-OTP-2136-0699, at 0715-0717; CAR-D33-0015-4230, at 4277-4279.

[REDACTED].[3628] P-1743 stated that he is a Christian and that, at the time of the events, he was [REDACTED].[3629] He testified that he saw the Fifth Detainee reading a document that he had found on the ground, when a pick-up truck with armed Seleka members arrived.[3630] P-1743 testified that the Seleka members surrounded the Fifth Detainee, ripped the document out of his hands and tried to put him into their vehicle.[3631] P-1743 stated that, when he intervened, the Seleka members apprehended both P-1743 and the Fifth Detainee, took their mobile phones, and threw the two men into the vehicle, where they had to lie on the floor.[3632] P-1743 recalled that after the Seleka members threw him and the Fifth Detainee into the truck, they walked on their head, neck and stomach, which caused him pain.[3633] P-1743 stated that he had not read the document and was not informed of the reason for his 'arrest'.[3634]

1274. P-1180 and P-1743 testified that the Seleka members transported them to Camp de Roux together with the other persons who had been apprehended.[3635] P-1180 and P-1743 recalled that the Seleka members beat the detainees upon arrival,[3636] and that the Colonel gave an order for the detainees to be placed in cells.[3637] P-1180 stated that the Colonel kept him and another detainee with him in the vehicle and drove out again.[3638]

1275. P-1180 recalled that the Colonel drove to the Fouh neighbourhood and 'arrested' a young man who was carrying a car engine battery, which the Colonel accused him of having stolen.[3639] The Colonel also apprehended P-2263 (the Tenth Detainee) and another

[3628] The Chamber notes that P-1743 did not mention any other individuals apprehended at that time. P-1743: T-086, p. 26. The Chamber notes that the statements given by P-1743 and the Fifth Detainee during the subsequent trial refer to the Fifth Detainee having the flyer or being in the proximity of people who were reading the flyer before the Seleka arrested them: records of court hearings, CAR-OTP-2136-0699, at 0709-0710, 0724-0725; CAR-D33-0015-4230, at 4271-4272, 4286-4287.
[3629] P-1743: T-086, pp. 24-25.
[3630] P-1743 stated that he was not able to identify or count the persons in the car as Seleka members, as they were inside the vehicles and they were wearing *kadamouls*: P-1743: T-086, pp. 26, 29-30.
[3631] P-1743: T-086, p. 26.
[3632] P-1743: T-086, p. 26.
[3633] P-1743: T-086, pp. 26, 30.
[3634] P-1743: T-086, pp. 28, 30. The Chamber notes that P-1180 and P-2263 stated that the Colonel's car was white, whereas P-1743 recalled that the vehicle was a green colour: P-1180: CAR-OTP-2043-0483, at 0488, para. 34; P-2263: CAR-OTP-2089-1229, at 1231, para. 15; P-1743: T-086, p. 29. The Chamber considers this inconsistency to be insignificant.
[3635] P-1180: CAR-OTP-2043-0483, at 0493, para. 71; P-1743: T-086, pp. 26-27; P-1743: T-087, p. 34.
[3636] P-1180: CAR-OTP-2043-0483, at 0493, para. 71; P-1743: T-086, p. 41.
[3637] P-1180: CAR-OTP-2043-0483, at 0493, para. 72.
[3638] P-1180: CAR-OTP-2043-0483, at 0493, paras 72, 74.
[3639] P-1180: CAR-OTP-2043-0483, at 0493-0494, para. 74. P-1180 testified that the 'man said that his father sent him to recharge it and he was just walking back to his house' and the Colonel seized the battery and told him to get in the truck and they would go to his house to verify this story; however, they did not drive to the man's house.

person (the Eleventh Detainee), who were standing in front of [REDACTED] in the [REDACTED] neighbourhood.[3640] P-2263 testified that he is a Christian and that he was working as a [REDACTED] at the time of the events.[3641] P-2263 described the events from his perspective,[3642] testifying that he was [REDACTED] in front of [REDACTED] together with three [REDACTED] and the Eleventh Detainee at around [REDACTED] when a Seleka vehicle stopped in front of the shop.[3643] P-2263 testified that the Seleka members ordered them to stand up and pushed P-2263 and the Eleventh Detainee towards the Seleka vehicle.[3644] P-2263 recalled that the Seleka members did not answer when he asked why he was being 'taken away',[3645] and that no one explained any 'judicial procedure' to him.[3646] P-2263 stated that he and the Eleventh Detainee were 'dumped' into the back of the vehicle and one of the Seleka members took his phone and the money he had on him.[3647]

1276. P-2263 testified that the Seleka members tried to apprehend a man and a woman across the street, but let the woman go because people had started to gather.[3648] Given the location of the events and the number of detainees mentioned by P-2263 and P-1180 as being in the vehicle when P-2263 and his friend were detained (four and five respectively),[3649] it is unclear to the Chamber whether this man was a different person to the man carrying a car engine battery mentioned by P-1180.

1277. P-1180 testified that the Colonel next stopped near the [REDACTED], where he asked a

[3640] P-1180: CAR-OTP-2043-0483, at 0494, paras 75-76.
[3641] P-2263: CAR-OTP-2089-1229, at 1231, para. 11; P-2263: T-058, p. 8.
[3642]P-2263: CAR-OTP-2089-1229, at 1231-1232, paras 14-15, 17; P-2263: T-059, p. 33. *See also* P-1180: CAR-OTP-2043-0483, at 0494, paras 75-76.
[3643] P-2263 described the vehicle as a white 4x4 Toyota without any insignia or writing on it, adding that there were about six or seven Seleka members inside and that the driver was referred to as 'Colonel'. P-2263 stated that all of the Seleka members in the vehicle were armed and wore military green uniforms. *See* P-2263: CAR-OTP-2089-1229, at 1231-1232, paras 13-17. The Chamber notes that the statements given by the Tenth Detainee and the Eleventh Detainee during the subsequent trial before the *Tribunal de Grande Instance* refer to people who were reading the flyer or were in possession of it and had left their vehicle to be repaired before the Seleka detained the Tenth Detainee and Eleventh Detainee: records of court hearings, CAR-OTP-2136-0699, at 0708-0709, 0714-0715; CAR-D33-0015-4230, at 4270-4271, 4276-4277.
[3644] P-2263 stated that he believes the [REDACTED] were not taken because they were further away from him and from the other person who was apprehended: P-2263: CAR-OTP-2089-1229, at 1232, paras 18-23.
[3645] P-2263: CAR-OTP-2089-1229, at 1232, para. 18.
[3646] P-2263: T-059, pp. 17-18.
[3647] P-2263: CAR-OTP-2089-1229, at 1232, paras 20-22.
[3648] P-2263: CAR-OTP-2089-1229, at 1232-1233, paras 24-25.
[3649] The Chamber also notes that P-1180 indicated that although he tried to remember the details and the order in which the various individuals were apprehended, he could only do so on the basis of his recollection and acknowledged that, given the circumstances, he may have mixed up the order at times. *See* P-1180: CAR-OTP-2043-0483, at 0492-0494, paras 59, 72, 74-75; P-2263: CAR-OTP-2089-1229, at 1232, para. 22.

young man (the Twelfth Detainee) who was [REDACTED] to pick up a piece of paper that was on the ground and bring it to him.[3650] P-1180 stated that the Colonel then apprehended the Twelfth Detainee, making it look to any passers-by as if he caught someone with illegal papers, and the Seleka guards put him into the truck.[3651] According to P-1180, they next 'stopped in front of [a] photocopier machine kiosk' near the electrical company ENERCA and searched for papers, but did not find any.[3652] P-1180 stated that the Colonel seized the photocopier machine anyway and then searched an adjacent tailor shop and stole one of their sewing machines.[3653] P-1180 and P-2263 recalled that the Seleka members wanted to apprehend a person at this location and fired at him but missed when he ran away.[3654] P-1180 testified that the Colonel was upset and apprehended a man who was standing on the side of the street holding a bag and put him into the truck.[3655]

1278. P-1180 and P-2263 testified that the Colonel then stopped at what appeared to be his house and unloaded the machines and the car battery.[3656]

1279. P-1180 and P-2263 recalled that the Colonel's vehicle turned around and headed back but was stopped by a vehicle with a different group of Seleka members,[3657] and, following a heated exchange, the detainees were transferred to the intercepting Seleka vehicle.[3658] P-1180 and P-2263 testified that the Seleka members took them and the other detainees who were also in the car to Camp Béal,[3659] where they were physically mistreated, threatened and interrogated in the presence of a Seleka General.[3660] P-1180 testified that

[3650] P-1180: CAR-OTP-2043-0483, at 0494, para. 77. P-1180's account of the circumstances of the arrest of the Twelfth Detainee is corroborated by the statement given by the Twelfth Detainee during the subsequent trial: records of court hearings, CAR-OTP-2136-0699, at 0721; CAR-D33-0015-4230, at 4283.
[3651] P-1180: CAR-OTP-2043-0483, at 0494, para. 77. P-1180's account of the circumstances of the arrest of the Twelfth Detainee is corroborated by the statement given by the Twelfth Detainee during the subsequent trial: records of court hearings, CAR-OTP-2136-0699, at 0721; CAR-D33-0015-4230, at 4283.
[3652] P-1180: CAR-OTP-2043-0483, at 0494, para. 78.
[3653] P-1180: CAR-OTP-2043-0483, at 0494, para. 78.
[3654] P-1180: CAR-OTP-2043-0483, at 0494, para. 78; P-2263: CAR-OTP-2089-1229, at 1233, para. 26. According to P-1180, this man must have been the owner or an employee of [REDACTED], while P-2263 recalled that he had been [REDACTED] at the time.
[3655] P-1180: CAR-OTP-2043-0483, at 0494, para. 78.
[3656] P-1180: CAR-OTP-2043-0483, at 0495, paras 83-84; P-2263: CAR-OTP-2089-1229, at 1233, paras 27-30.
[3657] P-1180 and P-2263 stated that the Seleka members they encountered seemed to have Sudanese or Chadian origins and did not speak Sango: P-1180: CAR-OTP-2043-0483, at 0495-0496, paras 86, 88-89; P-2263: CAR-OTP-2089-1229, at 1233-1234, paras 31-32.
[3658] P-1180: CAR-OTP-2043-0483, at 0496, paras 89-90; P-2263: CAR-OTP-2089-1229, at 1233-1234, paras 33-34.
[3659] P-1180 and P-2263 stated that they were able to recognise the location as Camp Béal: P-1180: CAR-OTP-2043-0483, at 0496, para. 90; P-2263: CAR-OTP-2089-1229, at 1234, para. 35.
[3660] P-1180: CAR-OTP-2043-0483, at 0496, paras 90-94; P-2263: CAR-OTP-2089-1229, at 1234, paras 35-38.

the Seleka members made the detainees lie down and threw water on them, beat them with the metal buckles of their military belts, the butt of their AK-47s and with a horse whip, adding that one of the Seleka Generals 'pistol whipped' him until he lost consciousness and kicked another detainee, who fell down and fractured his elbow.[3661] P-2263 stated that the Seleka members 'constantly' beat the detainees, and that the General started hitting them in the head with his sidearm, causing some of them to bleed.[3662] P-1180 recalled that the Seleka Colonel who had initially 'arrested' them arrived at Camp Béal, showed the General a piece of paper and said that Michel Djotodia had requested that the detainees be brought to him at Camp de Roux, which is corroborated by P-2263.[3663]

1280. According to P-1180, P-1743 and P-2263, the Colonel then placed the detainees back in his vehicle and drove off, stopping on the bank of the Oubangui River.[3664] The witnesses stated that the Seleka [REDACTED].[3665] P-1180 and P-2263 stated that the Colonel then drove them back to Camp de Roux,[3666] where Seleka members beat them upon arrival.[3667] P-1180 recalled that the Seleka members beat the detainees with the buckles of their military belts, whipped them with some cords, struck them with the butts of AK-47s and kicked them with their boots, causing P-1180 to bleed from his shins and have a sore ribcage.[3668] P-2263 added that the Seleka members were slapping them.[3669] P-2263 stated that the Seleka members threatened and cursed the detainees, while P-1180 described them 'shouting in anger and excitement' as they thought that the detainees were 'Bozizé's men'.[3670]

[3661] P-1180: CAR-OTP-2043-0483, at 0496, paras 91-94.
[3662] P-2263: CAR-OTP-2089-1229, at 1234, paras 38-39.
[3663] P-1180: CAR-OTP-2043-0483, at 0496-0497, paras 95-96; P-2263: CAR-OTP-2089-1229, at 1235, paras 40-41; P-2263: CAR-OTP-2091-3074, at 3076, para. 12.
[3664] P-1180: CAR-OTP-2043-0483, at 0497, paras 96-98; P-1743: T-086, p. 27; P-2263: CAR-OTP-2089-1229, at 1235, paras 41-42. P-1180 was able to direct the investigators to the tree where he had previously mentioned in his statement that the Colonel stopped the vehicle: P-1180: CAR-OTP-2043-0483, at 0510, paras 205-206, referring to photographs of tree, CAR-OTP-2043-0613, CAR-OTP-2043-0614; photograph of coordinates, CAR-OTP-2043-0615.
[3665] P-1180: CAR-OTP-2043-0483, at 0497-0498, paras 98-104; P-1743: T-086, p. 27; P-2263: CAR-OTP-2089-1229, at 1235-1236, paras 45-47. [REDACTED]: P-1180: CAR-OTP-2043-0483, at 0497, paras 99-101. [REDACTED]: P-2263: CAR-OTP-2089-1229, at 1236, para. 50.
[3666] P-1180: CAR-OTP-2043-0483, at 0498, para. 105; P-2263: CAR-OTP-2089-1229, at 1236, para. 52.
[3667] P-1180: CAR-OTP-2043-0483, at 0498, para. 105; P-2263: CAR-OTP-2089-1229, at 1236, para. 53.
[3668] P-1180: CAR-OTP-2043-0483, at 0498, para. 105.
[3669] P-2263: CAR-OTP-2089-1229, at 1236, para. 53; P-2263: CAR-OTP-2091-3074, at 3076-3077, para. 14.
[3670] P-2263 stated that the Seleka members told the detainees 'We arrived in this country how long ago? So that you and that Bozize come to kick us out. We have not yet eaten enough': P-2263: CAR-OTP-2091-3074, at 3076-

1281. P-2295 (the 'Thirteenth Detainee') stated that he is a Christian of [REDACTED] ethnicity and that he was a resident of Boy Rabe and a [REDACTED] at the time of his prior recorded testimony.[3671] P-2295 testified that he was apprehended by the Seleka at around [REDACTED] on the same day as the other detainees.[3672] P-2295 testified that he heard people at the [REDACTED] saying there would be a strike on Monday and people would not go to work, and a boy handed him a paper, explaining to P-2295 that it mentioned the strike that the people were talking about.[3673] According to P-2295, a man wearing a jeans suit asked him about the paper and P-2295 replied that he 'heard that on Monday there would be a strike and anyone moving throughout Bangui town or driving cars would be arrested'.[3674] P-2295 stated that the man continued asking him questions about the flyer and was joined by two other persons, who were also wearing jeans.[3675]

1282. P-2295 recalled that one of the men made a phone call to someone he addressed as 'General'.[3676] He stated that the men, who he realised were Seleka members, grabbed P-2295 and dragged him out of the [REDACTED].[3677] P-2295 stated that he told them that he did not understand what was happening and told them to leave him alone.[3678] According to P-2295, a vehicle which bore no inscription or registration plate arrived and a man, whom P-2295 identified as the Seleka General, stepped out.[3679] P-2295 stated that, as there were many people around, the Seleka members and the General began threatening them with their weapons.[3680] P-2295 testified that the Seleka members who initially approached him then placed him in the vehicle and drove away without informing P-2295 of where he was being taken or the reason they had taken him.[3681] P-2295 stated that he was the only prisoner in the vehicle.[3682]

3077, para. 14; P-2263: CAR-OTP-2089-1229, at 1236, para. 53; P-1180: CAR-OTP-2043-0483, at 0498, para. 105.

[3671] P-2295: CAR-OTP-2130-9460, at 9460; P-2295: CAR-OTP-2130-9460, at 9462, paras 11, 19.

[3672] P-2295: CAR-OTP-2130-9460, at 9462, para. 12. *See also* P-1180: CAR-OTP-2043-0483, at 0501, para. 134.

[3673] P-2295: CAR-OTP-2130-9460, at 9462, paras 12-13.

[3674] P-2295: CAR-OTP-2130-9460, at 9462-9463, para. 14.

[3675] P-2295: CAR-OTP-2130-9460, at 9463, para. 15.

[3676] P-2295: CAR-OTP-2130-9460, at 9463, para. 16.

[3677] P-2295 testified that he became aware that the men were part of the Seleka at this moment: P-2295: CAR-OTP-2130-9460, at 9463, para. 16.

[3678] P-2295: CAR-OTP-2130-9460, at 9463, para. 16.

[3679] P-2295: CAR-OTP-2130-9460, at 9463, para. 17.

[3680] P-2295: CAR-OTP-2130-9460, at 9463, para. 17.

[3681] P-2295: CAR-OTP-2130-9460, at 9463, para. 18.

[3682] P-2295: CAR-OTP-2130-9460, at 9463, para. 18. The Chamber finds that P-2295 was apprehended individually and brought to Camp de Roux. Evidence that P-2295 was taken to be detained by the Seleka is

1283. According to P-2295, bystanders from the [REDACTED] attempted to alert a nearby FOMAC military patrol vehicle that he had 'just been kidnapped by the Seleka', adding that the Seleka 'drove their vehicle along a […] bus in order to hide [him] from the sight of the FOMAC patrol'.[3683] P-2295 recalled that the Seleka took him to Camp de Roux, where '[t]here were many prisoners lined up in different lines'.[3684] P-2295 testified that he 'started to be very frightened' and 'was also scared because [he was] a resident of Boy Rabe and [he] heard that the Seleka were targeting people from Boy Rabe'.[3685]

1284. P-1180 testified that he encountered three other detainees at Camp de Roux who had been apprehended on the same day.[3686] P-1180 stated that one of the detainees (the Fourteenth Detainee) told him that he was [REDACTED] in the [REDACTED] area and that the 'same Colonel' had apprehended him 'for no reason, claiming that he had protest papers'.[3687] P-1180 stated that he encountered another man (the Fifteenth Detainee), who told P-1180 that the 'same Colonel' apprehended him in [REDACTED] on the same day as the other prisoners.[3688] Documentary evidence of subsequent trial proceedings include a statement from the Fifteenth Detainee, who said that he was apprehended when he was going to visit a friend who was engaged in commerce and mentioned that this happened next to a print shop and there were many papers on the ground.[3689] The record of the trial proceedings also includes the public prosecutor's submission that the Fifteenth Detainee was 'raising awareness' without any explanation of what he was doing.[3690] According to P-1180, a different person (the Sixteenth Detainee) also told him that the 'same Colonel'

supported by the record of the hearings which took place later: records of court hearings, CAR-OTP-2136-0699, at 0723; CAR-D33-0015-4230, at 4285.

[3683] P-2295: CAR-OTP-2130-9460, at 9463, para. 18.

[3684] P-2295: CAR-OTP-2130-9460, at 9464, para. 19.

[3685] P-2295: CAR-OTP-2130-9460, at 9464, para. 19.

[3686] P-1180: CAR-OTP-2043-0483, at 0501-0502, paras 130, 133, 135.

[3687] P-1180 stated that he did not recall this person being in the same vehicle as him and did not know if the Colonel had arrested this person in the morning before he arrested P-1180, as the Colonel had told P-1180 that he had been chasing the paper suspects since the Combattant neighbourhood when he arrested him: P-1180: CAR-OTP-2043-0483, at 0501, paras 130-131. The Chamber notes that subsequent court records contain a statement from the Seventh Detainee which mentions that the Fourteenth Detainee was already present in the vehicle at the moment the Seleka took him: records of court hearings, CAR-OTP-2136-0699, at 0722; CAR-D33-0015-4230, at 4284. Nonetheless, the Chamber is satisfied that the Seleka apprehended the Fourteenth Detainee on the same day as the remaining detainees and in connection to the flyers. P-1180's account of what the Fourteenth Detainee told him regarding his arrest is consistent with the statement given by the Fourteenth Detainee during the subsequent trial: records of court hearings, CAR-OTP-2136-0699, at 0705-0708; CAR-D33-0015-4230, at 4267-4270.

[3688] P-1180: CAR-OTP-2043-0483, at 0501, para. 133. Evidence that the Fifteenth Detainee was taken to be detained by the Seleka is supported by the statement given by the Fifteenth Detainee during the subsequent trial: records of court hearings, CAR-OTP-2136-0699, at 0722-0723; CAR-D33-0015-4230, at 4284-4285.

[3689] Records of court hearings, CAR-OTP-2136-0699, at 0722-0723, CAR-D33-0015-4230, at 4284-4285.

[3690] Records of court hearings, CAR-OTP-2136-0699, at 0736-0737, CAR-D33-0015-4230, at 4297-4298.

apprehended him at PK0 on the same day as the other detainees, while he was [REDACTED] on the street.[3691]

ii. Detention and mistreatment at Camp de Roux

1285. P-1180 testified that a Seleka guard registered the detainees apprehended in connection with the flyers upon their arrival[3692] at Camp de Roux.[3693] According to the evidence set out in the preceding section, the Chamber notes that the Seleka members mistreated some of the detainees on arrival, once when the Colonel brought P-1180 and the Second Detainee to Camp de Roux,[3694] and again when he returned with P-1180, P-2263, and P-1743, as well as the Third, Fourth, Fifth, Sixth, Seventh, Ninth, Eleventh and Twelfth Detainees to Camp de Roux later on the same day.[3695] The Chamber notes that there is no evidence in relation to whether the Seleka mistreated the remaining detainees at Camp de Roux.

1286. P-1180 and P-2263 testified that they and the Eleventh Detainee were placed together in a cell, separate from the other persons apprehended in relation to the Flyers Incident.[3696] P-1180 stated that on the second day of detention, the Seleka removed P-2263 and the Eleventh Detainee and P-1180 remained alone in the cell.[3697] [REDACTED] testified that the Seleka guards brought two young people into the cell in the evening and, later that same evening, called [REDACTED] and these new detainees out of the cell, covered

[3691] P-1180: CAR-OTP-2043-0483, at 0502, para. 135. Evidence that the Sixteenth Detainee was taken to be detained by the Seleka is supported by the record of the hearings which took place later: records of court hearings, CAR-OTP-2136-0699, at 0723-0724; CAR-D33-0015-4230, at 4285-4286.
[3692] P-2295 and P-1180 stated that they were ordered to remove their clothes, with P-1180 clarifying that they remained in their underwear: P-1180: CAR-OTP-2043-0483, at 0499, para. 110; P-2295: CAR-OTP-2130-9460, at 9464, para. 19.
[3693] The Chamber notes that the persons arrested in relation to this incident were all eventually taken to Camp de Roux on 4 July 2013: P-1180: CAR-OTP-2043-0483, at 0501-0502, paras 130-135.
[3694] P-1180: CAR-OTP-2043-0483, at 0489, 0491, paras 40, 42, 51.
[3695] P-1180: CAR-OTP-2043-0483, at 0498, para. 105; P-2263: CAR-OTP-2089-1229, at 1236, para. 53; P-2263: CAR-OTP-2091-3074, at 3076-3077, para. 14; P-1743: T-087, p. 34; P-1743: T-086, p. 41.
[3696] P-1180: CAR-OTP-2043-0483, at 0499, para. 111; P-2263: CAR-OTP-2089-1229, at 1236, para. 54. The Chamber notes the inconsistency with P-1743 and P-2295's testimonies, who stated that the entire group of detainees was put together in the same cell upon arrival: P-1743: T-086, pp. 38-39; P-2295: CAR-OTP-2130-9460, at 9464, para. 20. In this regard, the Chamber notes that the fact that two detainees were separated would have impacted the two detainees who were separated more than the group, who were placed in the cell together. Consequently, the Chamber does not consider this inconsistency material and is satisfied on the basis of the testimony of P-1180 and P-2263 that the three detainees were separated from the rest of the group:
[3697] P-1180: CAR-OTP-2043-0483, at 0499, para. 116. The Chamber notes that P-2263 testified that, as far as he could remember, the separated detainees were moved together into the cell of the remaining prisoners on the second day of detention. The Chamber gives more weight to the testimony of P-1180, given that the events he describes as having subsequently taken place would have left a lasting impression, whereas P-2263 may have not been as attentive to the absence for one night of a detainee he had just met: P-2263: CAR-OTP-2089-1229, at 1237, para. 56.

their eyes with a cloth, placed them in the back of a pick-up truck, drove for a few minutes and then stopped.[3698] [REDACTED] recalled that they were taken out of the vehicle and walked for a while before they stopped, [REDACTED] heard the other two detainees crying in pain and pleading for God to help them.[3699] [REDACTED] stated that the Seleka guards then removed [REDACTED] eye cover and asked him to dispose of the bodies of the detainees, which [REDACTED] had been mutilated by the Seleka.[3700] [REDACTED] testified that, [REDACTED], [REDACTED] was subsequently brought back to his cell where he spent the night alone and had to use his own urine to wash the blood off his hands.[3701]

iii. Detention and mistreatment at the OCRB

1287. Multiple witnesses testified that the persons detained in relation to the flyers were transferred to the OCRB on 10 July 2013, after seven days of detention at Camp de Roux.[3702] The Prosecutor's register indicated that the detainees were at the OCRB on 10 July 2013.[3703] Accordingly, the Chamber is satisfied that the transfer of the detainees took place on or about 10 July 2013. According to the evidence on the record, [REDACTED] was released from detention before the detainees' transfer to the OCRB.[3704]

1288. The Chamber notes the Defence's argument that the group of detainees was released from pre-trial custody on 10 July 2013,[3705] and that custody orders were issued on 11 July 2013, in compliance with the CAR Criminal Procedure Code.[3706] The Chamber notes that

[3698] [REDACTED].
[3699] [REDACTED].
[3700] [REDACTED].
[3701] [REDACTED].
[3702] P-1180: CAR-OTP-2043-0483, at 0504, para. 153; P-1743: T-086, p. 43; P-2263: CAR-OTP-2089-1229, at 1238, para. 64. The Chamber notes that P-2295 mentioned that the detainees were transferred to the OCRB after five days of detention, but it is unclear whether he was counting full days of detention. The Chamber is satisfied based on the evidence as a whole that the detainees were transferred on the seventh day of detention in Camp de Roux. *See* P-2295: CAR-OTP-2130-9460, at 9465, para. 25.
[3703] Prosecutor's register, CAR-OTP-2008-2415, at 2501.
[3704] P-2263: CAR-OTP-2091-3074, at 0378, para. 18; P-1743: T-087, p. 10. The Chamber further notes the record of proceedings contained in the register of court hearings, which contains [REDACTED]'s statement that he was released by the guards from Camp de Roux: records of court hearings, CAR-OTP-2136-0699, at 0727; CAR-D33-0015-4230, at 4289. P-1180 stated that an OCRB Seleka member informed him that [REDACTED]'s family had paid a sum of money in exchange for his release: P-1180: CAR-OTP-2043-0483, at 0504-0505, paras 151, 158.
[3705] 72 hours that can be extended once as from 4 July 2013.
[3706] Defence Closing Brief, ICC-01/14-01/21-1039-Red, paras 468-470, Defence Closing Brief, ICC-01/14-01/21-1039-Conf, paras 468-470, referring to interrogation documents, CAR-OTP-2135-3192, at 3197-3199; CAR Criminal Procedure Code, CAR-OTP-2001-3680, at 3687, article 40; prosecutor's register, CAR-OTP-2008-2415, at 2501.

the CAR Criminal Procedure Code allows the judicial police to detain persons for an initial period of 72 hours renewable once, subject to certain guarantees.[3707] However, the documents referred to provide no clear evidence that the detainees were released on 10 July 2013 and none of the witnesses refer to such a release having occurred. Therefore, the Chamber rejects this argument.

1289. The Chamber heard evidence that the detainees were severely mistreated upon arrival at the OCRB.[3708] Several witnesses testified that members of the OCRB Seleka ordered the detainees to remove their clothing so that they were only wearing their underwear, and to lie face-down while the Seleka members threw sand, soil or clay mixed with water on the detainees' backs.[3709] The Chamber received evidence to the effect that members of the OCRB Seleka then whipped the detainees on their backs multiple times, with P-2263 reporting that the beating caused a detainee [REDACTED].[3710] P-1180 added that one OCRB Seleka member 'had a metal bar to beat [them] if [they] tried to run away'.[3711] P-1743 recalled that his family was there and that his [REDACTED], as well as all the people around could see how the Seleka were beating them, as a result of which he felt

[3707] CAR Criminal Procedure Code, CAR-OTP-2001-3680, at 3687-3688, article 40.
[3708] P-1180: CAR-OTP-2043-0483, at 0504, paras 154-155; P-2263: CAR-OTP-2091-3074, at 3079, para. 21; P-2295: CAR-OTP-2130-9460, at 9465, paras 25-26. P-1743 stated that each prisoner received 'six blows in all', adding that the Seleka members continued to beat him even after the other detainees had been taken to a cell, and that they asked P-1743 'Why aren't you behaving like the others who are being hit and who are yelling at the same time?': P-1743: T-086, p. 43; P-1743: T-087, p. 5.
[3709] P-1180: CAR-OTP-2043-0483, at 0504, para. 154; P-1743: T-086, p. 43; P-1743: T-087, p. 5; P-2263: CAR-OTP-2091-3074, at 3079, para. 21; P-2295: CAR-OTP-2130-9460, at 9465, para. 25. P-1743 explained that his family was present outside of the OCRB and was able to witness his mistreatment through the fence of the compound: P-1743: T-086, p. 43. P-2692 also testified that the detainees were beaten on arrival: P-2692: CAR-OTP-2125-0922, at 0928, para. 33. The Chamber notes the Prosecution's argument that the person who ordered the beating of the detainees is 'the OCRB Commander', Mr Said. The Chamber notes that this allegation is based on the testimony of P-2692, the principal victim of Incident C. The Chamber has previously found that the identity of the person described as the 'OCRB Colonel' by P-2692 cannot be attributed to the accused. Therefore, the Chamber rejects the Prosecution's argument: Prosecution Closing Brief, ICC-01/14-01/21-1027-Red, paras 167-168, referring to P-2692: CAR-OTP-2125-0922, at 0928-0929, para. 33. *See* above paras 1232-1236.
[3710] P-1180: CAR-OTP-2043-0483, at 0504, para. 155; P-1743: T-087, pp. 4-5; P-2263: CAR-OTP-2091-3074, at 3079, para. 21; P-2295: CAR-OTP-2130-9460, at 9465, para. 25. The Chamber has considered the inconsistencies between the detainees' testimonies with respect to the number of lashes they received and to the items that were used to hit them. It finds that the differences between their accounts are not significant and that, in any event, the detainees' accounts are consistent as to the fact that the OCRB Seleka members whipped them multiple times on their backs. P-2295 and P-1743 recalled that the Seleka members were also insulting the detainees during the beating, telling them that they would die, that they would 'go work on President [Djotodia]'s cereals plantation' and that 'You and Bozizé, you reigned for 10 years and what did you do that was good for the country? You reigned alongside Bozizé for 10 years and what did you do that was good in any way to dare to drive us out?': P-2295: CAR-OTP-2130-9460, at 9465, para. 26; P-1743: T-087, p. 5. P-2692 also stated that the Seleka members asked the detainees 'why they were involving themselves in politics and producing documents asking [Djotodia] to resign from power' and 'accused them of being involved in preparing a coup against [Djotodia]': P-2692: CAR-OTP-2125-0922, at 0928, para. 33.
[3711] P-1180: CAR-OTP-2043-0483, at 0504, para. 155.

that he lost the respect of his family.[3712] P-2263 explained that the detainees were then told to get up and were made to run into one of the open cells at the OCRB, while members of the OCRB Seleka kicked them with their boots and beat them with batons.[3713]

1290. The Chamber heard evidence that the detainees were kept in the same cell in the OCRB compound.[3714] P-1743 and P-2263 testified that the cell was crowded and that the prisoners had to take turns sitting down, with P-2263 noting it was difficult to sleep.[3715] P-1743 stated that the odour that the toilets gave off did not allow the detainees to 'live in humane conditions', adding that the detainees were breathing 'very unhealthy air'.[3716] P-2295 and P-2263 testified that there was no toilet in the cell, and P-2263 recalled that they were given water bottles from the second day of detention and they urinated in those.[3717] P-2295 testified that they were not allowed to take a shower,[3718] but P-1743 stated that after three days of detention the Seleka members allowed him and two other detainees to take a shower.[3719]

1291. Some of the witnesses stated that the detainees' families were allowed to visit them while

[3712] P-1743: T-086, p. 43; P-1743: T-087, p. 36.
[3713] P-2263: CAR-OTP-2091-3074, at 3079, para. 22, referring to sketch of the OCRB, CAR-OTP-2091-3091. The Defence argues that there are no medical documents or contemporaneous photographs to support the evidence given by the witnesses in relation to their physical mistreatment upon arrival at the OCRB and that the witnesses give 'very different accounts of the violence they claim occurred when they arrived at the OCRB'. The Chamber notes that documentary evidence of injuries is not necessary to validate the witnesses' accounts, which corroborate each other and are also corroborated by the evidence of a witness of another incident who was present at the time. The Chamber further notes that there are variations in the witnesses' accounts of what they were beaten with and how many times they were struck, but considers these minor variations in their recollections to be explicable on the basis of the passage of time and the traumatic effect of the beatings to which they were subjected. In addition, the Defence argues that witnesses of this incident would have had the possibility of communicating with each other and sharing a common story in their testimony. The Chamber considers that there is no indication that the witnesses have colluded with each other, in particular given the differences in their descriptions of events, and that the Defence's arguments in this respect are entirely speculative. *See* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 475.
[3714] P-1180: CAR-OTP-2043-0483, at 0504, para. 155; P-2263: CAR-OTP-2091-3074, at 3079, para. 22, referring to sketch of OCRB drawn by P-2263, CAR-OTP-2091-3091; P-1743: T-086, pp. 43-44; P-2295: CAR-OTP-2130-9460, at 9465, para. 26. S*ee* P-3112's OCRB Report, CAR-OTP-2062-0743, at 0868-0869; photographs, CAR-OTP-2033-7064, CAR-OTP-2033-7127, CAR-OTP-2033-7130, CAR-OTP-2033-7133, CAR-OTP-2033-7137, CAR-OTP-2033-7144.
[3715] P-1743: T-086, p. 44; P-2263: CAR-OTP-2091-3074, at 3079-3080, para. 23. *See also* P-2295: CAR-OTP-2130-9460, at 9465, para. 26.
[3716] P-1743: T-087, pp. 4, 37. P-1743 added that the odour coming into the cell incited him to start smoking: P-1743: T-087, p. 4. P-2263 stated that the toilet outside was full of faeces: P-2263: CAR-OTP-2091-3074, at 3079, para. 23.
[3717] P-2295: CAR-OTP-2130-9460, at 9465, para. 26; P-2263: CAR-OTP-2091-3074, at 3079-3080, para. 23.
[3718] P-2295: CAR-OTP-2130-9460, at 9465, para. 26.
[3719] P-1743: T-086, pp. 44-45.

in detention at the OCRB.[3720] P-1180 and P-1743 stated that the detainees' families were allowed to bring them food, and P-1743 added that the detainees could only drink the juice that the families were bringing them when visiting, as the Seleka did not give water to the detainees.[3721] P-1180 recalled that he was not offered any medical treatment while he was detained at the OCRB despite suffering from adverse effects caused by the mistreatment he was subjected to on arrival at the OCRB,[3722] but noted that the detainees' families brought them medicine.[3723]

1292. P-1743 stated that one day Prosecutor Tolmo came to the OCRB accompanied by a white person, who asked the persons detained in connection with the flyers about their conditions of detention and requested the release of a child considered too young to be imprisoned, who was subsequently released.[3724] The Chamber understands that this 'white person' was a representative of the fact-finding mission deployed to CAR between 20 June and 11 July 2013 under the mandate of the UNHCHR as this same incident is addressed in its report.[3725] The report of the UN fact-finding mission 'observed that penitentiary authorities as well as the Prosecutor of the Republic failed to invoke any legal basis justifying the deprivation of liberty of this group of persons, notably as it appears that it results from the exercise of the right to freedom of expression guaranteed under ICCPR'.[3726] The fact-finding mission report further noted that the Minister of Justice, Arsène Sende, had confirmed that the OCRB detainees would be transferred in a timely manner to the Central Prison of Bangui, but that the warden of the OCRB had not been informed of this transfer at the time of the visit.[3727]

1293. The witnesses testified about the treatment they received from the OCRB Seleka during the remainder of their detention at the OCRB. P-1180 stated that the detainees were

[3720] P-1180: CAR-OTP-2043-0483, at 0504, para. 156; P-1743: T-088, pp. 13-14. P-2263 marked the area where the detainees were allowed to sit with their families as 'H' in his sketch: P-2263: CAR-OTP-2091-3074, at 3079-3080, para. 23, referring to sketch of OCRB drawn by P-2263, CAR-OTP-2091-3091.
[3721] P-1180: CAR-OTP-2043-0483, at 0504, para. 156; P-1743: T-087, p. 37.
[3722] P-1180: T-068, p. 13.
[3723] P-1180: CAR-OTP-2043-0483, at 0504, para. 156.
[3724] P-1743 stated that the nature of the white man's questions led him to believe that he was a journalist: P-1743: T-086, p. 44; P-1743: T-087, p. 7; P-1743: T-088, pp. 15-16. UNHCHR Fact-Finding Mission Report, CAR-OTP-2034-0270, at 0286, paras 83-84.
[3725] UNHCHR Fact-Finding Mission Report, CAR-OTP-2034-0270, at 0286, para. 84.
[3726] UNHCHR Fact-Finding Mission Report, CAR-OTP-2034-0270, at 0286-0287, para. 84.
[3727] UNHCHR Fact-Finding Mission Report, CAR-OTP-2034-0270, at 0287, para. 86.

beaten again on the second day of their detention at the OCRB.[3728] P-2263 stated that one member of the OCRB Seleka fired a shot at the wall of their cell while the detainees were praying and shouted at them to 'shut up as this was not [their] place of prayer'.[3729] P-1180 stated that Seleka guards asked the detainees for money in exchange for their release, noting that one of the OCRB Seleka members beat him when P-1180 told him that his family did not have any money to spare.[3730] P-2295 stated that many OCRB Seleka members pointed at them and said they were pro-Bozizé and against the Seleka regime.[3731]

1294. The witnesses described several instances in which they witnessed the mistreatment of other people detained at the OCRB. P-1743 described being able to hear other detainees 'crying and shouting', which led them to believe that these persons were being beaten.[3732] P-2263 stated that during their detention at the OCRB, he heard another detainee being severely beaten and begging the Seleka to stop.[3733] P-2263 testified that the next day, he saw that the man was unable to stand and had a very swollen leg that appeared to be broken, adding that the 'OCRB Commander' refused the request of the man's family to take him to the hospital.[3734]

1295. Most of the witnesses stated that the persons apprehended in relation to the flyers were detained at the OCRB for approximately one week (meaning from on or about 10 July 2013 to on or about 17 July 2013).[3735]

[3728] P-1180: CAR-OTP-2043-0483, at 0504, para. 156. The Chamber notes P-2263's testimony that the detainees were not beaten again at the OCRB after the first day: P-2263: CAR-OTP-2091-3074, at 3080, para. 24. The Chamber considers that nothing significant turns on this inconsistency, which is attributable to the passage of time and the traumatic nature of the events experienced by the detainees, and that the detainees were, in any event, beaten by members of the OCRB Seleka on at least one occasion while in detention at the OCRB.
[3729] P-2263: CAR-OTP-2091-3074, at 3081, para. 29.
[3730] P-1180: CAR-OTP-2043-0483, at 0505, paras 158-159.
[3731] P-2295: CAR-OTP-2130-9460, at 9465, para. 27.
[3732] P-1743: T-087, pp. 5-6.
[3733] P-2263: CAR-OTP-2091-3074, at 3081, para. 30.
[3734] P-2263: CAR-OTP-2091-3074, at 3081, para. 30.
[3735] P-1180: CAR-OTP-2043-0483, at 0505, para. 163; P-1743: T-087, p. 12; P-2263: CAR-OTP-2091-3074, at 3083, para. 36. The Chamber notes the inconsistency between the testimonies of P-1180, P-1743 and P-2263, who stated that they spent a week at the OCRB and the testimony of P-2295, who stated that he spent two to three days at the OCRB (P-2295: CAR-OTP-2130-9460, at 9465, para. 25). The Chamber further notes that P-2295 found it difficult to accurately recall the date of his arrest and the duration of time he was detained at other locations (P-2295: CAR-OTP-2130-9460, at 9462, 9465, paras 12, 25). The Chamber is satisfied that P-2295's memory of the timeline of events is not reliable. The Chamber further notes an inconsistency between the dates of the victims' detention at the OCRB and the date written on a document drafted by P-1743 while he was already in detention at Ngaragba prison. *See* [REDACTED], at 0041, which shows the date of 15 July 2013. P-1743 explained that he drafted it approximately four days after their arrival at Ngaragba, which would entail that the detainees were

iv. Legal procedures governing detention

1296. The Chamber turns now to the evidence regarding whether the detainees were interrogated and whether legal procedures governing detention were followed in relation to their detention.

1297. P-1180 and P-2263 recalled, when shown the record of the *procès-verbal* of one of the detainees, dated 6 July 2013, that they were interrogated during their detention at Camp de Roux.[3736] P-1743 and P-2295 recalled that the detainees were all questioned by Prosecutor Tolmo.[3737] P-1743 stated that, at this point, the detainees had not been informed of the reason for their detention (although he recalled discussions about whether they were the persons who wrote the pamphlets)[3738] or about their rights.[3739]

1298. P-1180, P-2263 and P-2692 stated that the group was interrogated at the courthouse on two occasions after they had been transferred to the OCRB.[3740] P-1743 and P-2295

brought to Ngaragba prison on approximately 11 July 2013 and that they would have only spent one day at the OCRB. *See* P-1743: T-088, pp. 27-28. While the Chamber awards significant weight to the contents of the document, it does not place importance on the date written down by P-1743, considering that the detainees had been in detention for more than a week by that point. Similarly, the Chamber takes note of a different document which he drafted during his detention at Ngaragba Prison, which bears the dates 4 and 25 September 2013. *See* list of contributions, CAR-OTP-2130-8377. When asked about it during his live testimony, P-1743 clarified that the correct dates were 4 and 25 August 2013: P-1743: T-087, pp. 20-21, 23, referring to list of contributions, CAR-OTP-2130-8377. Considering all of the above, the Chamber does not consider that anything substantive turns on the inconsistencies between the dates provided by the majority of the witnesses and the ones provided in P-1743's documents.

[3736] P-1180: CAR-OTP-2043-0483, at 0500, para. 123. The Chamber notes that P-1180's evidence of this interrogation is corroborated by a *procès-verbal* dated 6 July 2013, between 19:07 and 19:39, two days after the arrest of the detainees and during their detention at Camp de Roux, describing a questioning of P-1180 conducted by an OCRB police officer. The document shows the declaration given by P-1180, in which he describes the events that took place and then denies any wrongdoing. When shown this document, P-1180 recognised his signature, but did not recognise the name of the police officer. *See* P-1180: T-068, pp. 55-58, referring to interrogation documents, CAR-OTP-2135-3192, at 3194-3195, 3196, 3197-3199. The Chamber notes that P-2263 also testified that he was interrogated at Camp de Roux, noting the fact that he was unable to provide any details with respect to the person who interrogated him or the date of this interrogation; P-2263 only testified that he remembers signing a document at the end of the questioning: P-2263: T-059, pp. 13-21, referring to interrogation documents, CAR-OTP-2135-3192, at 3194, 3197-3198.

[3737] P-2295: CAR-OTP-2130-9460, at 9464, para. 19. P-1743 stated that Prosecutor Tolmo asked them about their personal details as well as about the location where they were apprehended, adding that each detainee was questioned for five to 10 minutes: P-1743: T-087, pp. 7-8. P-1743 added that the detainees were asked to sign the statements that they gave and that they were also questioned by a 'staff of the court', Nicole Yolanda Yamathia Mamia: P-1743: T-088, pp. 4-5, 7. P-2263 recalled signing a document at the end of the questioning at Camp de Roux: P-2263: T-059, pp. 13-14.

[3738] P-1743: T-086, p. 40.

[3739] P-1743: T-087, p. 8.

[3740] P-1180: CAR-OTP-2043-0483, at 0504-0505, paras 157, 160; P-2263: CAR-OTP-2091-3074, at 3082, paras 33-35; P-2692: CAR-OTP-2125-0922, at 0928, para. 33. The Chamber notes that documentary evidence of a *procès-verbal* prepared on 11 July 2013 refers to an interrogation of P-1180 occurring on that date: P-1180's *procès-verbal*, CAR-OTP-2135-3192, at 3196. *See also* P-1180: T-068, pp. 55-57.

testified that they were not interrogated at the OCRB.[3741] However, P-2295 confirmed that they were brought many times before the Tribunal, but could not recall the number of times and did not mention any dates.[3742]

1299. P-2263 also described being interrogated about the flyers in the main building at the OCRB. He testified that, when his statement was read back to him, he heard information that he had not given and, when he pointed this out, the man taking the statement seemed angry and told him that he had to accept it and just sign.[3743] P-2263 stated that he signed the statement under pressure as he was afraid that he would be beaten if he did not.[3744] The Chamber further notes that the record of subsequent trial of the detainees before the *Tribunal de Grande Instance* presents claims from the Second,[3745] Third,[3746] Fifth,[3747] Seventh,[3748] and Fourteenth[3749] Detainees that the information included in their *procès-verbaux* did not represent the statements they had given. The Fifteenth Detainee stated that no one read his *procès-verbal* back to him.[3750]

1300. Documentary evidence shows that custody orders were issued in respect of the detainees on 11 July 2013, relating to the charge of an 'act which is of a nature to compromise public security, occasion serious political unrest, stir up hatred of the Government or offend against the laws of the country' (Act of a Nature to Compromise Public Security).[3751] According to article 295 of the CAR Criminal Code, this offence is

[3741] P-1743: T-088, p. 16; P-2295: CAR-OTP-2130-9460, at 9465, para. 27.
[3742] P-2295: CAR-OTP-2130-9460, at 9466, para. 32.
[3743] P-2263: CAR-OTP-2091-3074, at 3080, para. 27.
[3744] P-2263: CAR-OTP-2091-3074, at 3080, para. 27.
[3745] Record of court hearings, CAR-OTP-2136-0699, at 0712; CAR-D33-0015-4230, at 4274, where the Second Detainee indicates that he did not recognise information set out in his *procès-verbal*.
[3746] Records of court hearings, CAR-OTP-2136-0699, at 0719-0720; CAR-D33-0015-4230, at 4281-4282, where the Third Detainee indicates that the commissioner had included a lie in his *procès-verbal*.
[3747] Records of court hearings, CAR-OTP-2136-0699, at 0725; CAR-D33-0015-4230, at 4287, where the Fifth Detainee indicates that information set out in his *procès-verbal* did not represent what he had said.
[3748] Records of court hearings, CAR-OTP-2136-0699, at 0722; CAR-D33-0015-4230, at 4284, where the Seventh Detainee indicates that information set out in his *procès-verbal* did not represent what he had said.
[3749] Records of court hearings, CAR-OTP-2136-0699, at 0707; CAR-D33-0015-4230, at 4269, where the Fourteenth Detainee indicates that information set out in his *procès-verbal* did not represent his statement.
[3750] Records of court hearings, CAR-OTP-2136-0699, at 0722; CAR-D33-0015-4230, at 4284.
[3751] *See* release certificates, CAR-OTP-2089-1242, CAR-OTP-2091-3192, which mention 11 July 2013 as the date of issuance of the custody order (*mandat de dépôt*). *See* P-1180's *procès-verbal*, CAR-OTP-2135-3192, at 3196, which shows that P-1180 was charged with an Act of a Nature to Compromise Public Security. *See also* register of the *Tribunal de Grande Instance* in Bangui, CAR-OTP-2135-3202, at 3232-3236, which shows that the detainees were charged with an Act of a Nature to Compromise Public Security, and refers to the date of 11 July 2013 for each of the detainees.

punishable by a term of imprisonment ranging from one to five years.[3752]

1301. Considering this evidence as a whole, the Chamber is satisfied that the detainees were interrogated on more than one occasion, *procès-verbaux* were recorded and custody orders were issued on 11 July 2013. The Chamber notes that, although there are indications in the documentary evidence that charges were brought against the detainees, the witnesses did not seem to be aware of the nature of the charges or of when these charges were brought.[3753]

v. Detention at Ngaragba prison

1302. Multiple witnesses stated that the persons detained in relation to the flyers were transferred from the OCRB to Ngaragba prison.[3754] P-1743 recalled that the Seleka members repeatedly threatened the group of detainees while transporting them to Ngaragba prison.[3755]

1303. P-1743 and P-2263 stated that the Seleka members beat the detainees upon arrival at Ngaragba prison, P-2263 adding that the Commander of the prison took off his military belt and started hitting them, causing him an injury to his neck.[3756] P-1180, P-1743, P-2263 and P-2295 testified that the group of detainees was put in a cell at Ngaragba prison.[3757] P-1743 stated that no one informed them about their rights.[3758] P-1180 and P-2263 testified that the Seleka members provided the detainees with food,[3759] but,

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[3752] CAR Criminal Code, CAR-OTP-2001-3199, at 3243, article 295. The charged acts were classified as *'delits'* in the CAR criminal legal system: records of court hearings, CAR-OTP-2136-0699, at 0745-0749; CAR-D33-0015-4230, at 4306-4310.

[3753] Register of the *Tribunal de Grande Instance* in Bangui, CAR-OTP-2135-3202, at 3232-3236; release certificates, CAR-OTP-2089-1242, CAR-OTP-2091-3192, which mention 11 July 2013 as the date of issuance of the custody order (*mandat de dépôt*); P-1180's *procès-verbal*, CAR-OTP-2135-3192 at 3196. In this regard, the Chamber notes that the witnesses generally displayed a limited understanding of the legal procedures they were allegedly subjected to: P-1180: T-068, pp. 55-57, referring to P-1180's *procès-verbal*, CAR-OTP-2135-3192 at 3196; P-1743: T-088, p. 24; P-1180: T-068, p. 26, 28. *See* CLRV Closing Brief, ICC-01/14-01/21-1028-Red2, para. 67.

[3754] P-1180: CAR-OTP-2043-0483, at 0505, paras 160, 163; P-1743: T-086, p. 45; P-2263: CAR-OTP-2091-3074, at 3082, para. 33; P-2295: CAR-OTP-2130-9460, at 9466, para. 28.

[3755] P-1743 recalled that the Seleka members told the detainees that they would 'go there [Ngaragba] and never come back', 'that they were going to kill [them]' and said 'how did [they] rule the country with Bozizé': P-1743: T-087, p. 11.

[3756] P-1743: T-087, p. 12; P-2263: CAR-OTP-2091-3074, at 3084, para. 42. P-2263 stated that they were not physically mistreated again at Ngaragba prison after the first day: P-2263: CAR-OTP-2091-3074, at 3085, para. 47.

[3757] P-1180, P-1743, P-2263 and P-2295 testified that they were later moved to another cell after two days of detention: P-1180: CAR-OTP-2043-0483, at 0506, para. 165; P-1743: T-087, pp. 12-13; P-2263: CAR-OTP-2091-3074, at 3084-3085, paras 43-44; P-2295: CAR-OTP-2130-9460, at 9466, para. 28.

[3758] P-1743: T-087, p. 15.

[3759] P-1180: CAR-OTP-2043-0483, at 0506, para. 166; P-2263: CAR-OTP-2091-3074, at 3085, para. 46.

according to P-1180 and P-1743, this was usually brought by the detainees' families.[3760]

1304. The witnesses testified that they received several visits during their detention at Ngaragba prison. P-1743 testified that [REDACTED] visited the detainees in their cell,[3761] P-2263 and P-2295 stated that Michel Djotodia came to visit the prison,[3762] and P-1743 stated that [REDACTED].[3763] P-1743 stated that while detained at Ngaragba prison, they received a visit from two or three teams of the Red Cross, who gave the detainees some antibiotics and anti-inflammatory medicine for their injuries[3764] and after this visit, they also received some mats to sleep on.[3765] In the assessment of the Chamber, these visits underscore the level of international and political interest in the situation of these detainees.

vi. Proceedings before the Tribunal de Grande Instance de Bangui

1305. P-2295 stated that, while the group of detainees was kept at Ngaragba prison, their family members insisted that they should hire lawyers, as otherwise they 'might not be judged'.[3766] P-1743 explained that the detainees managed to make contact with a lawyer, who explained the procedure to the detainees and provided initial advice to them, despite the threats he received.[3767] P-1743 stated that the families of the other detainees then contacted other lawyers.[3768] In order to [REDACTED], P-1743 stated that he

[3760] P-1180 and P-1743 stated that the Seleka members would sometimes keep the food brought by the detainees' families for themselves: P-1180: CAR-OTP-2043-0483, at 0506, para. 166; P-1743: T-087, pp. 13, 15. P-2263 stated that the detainees would sometimes share food with the Seleka members based at the prison and they would chat: P-2263: CAR-OTP-2091-3074, at 3085, para. 45.
[3761] P-1743 stated that [REDACTED] asked who the detainees were and someone who was accompanying him responded that 'these are individuals who are being accused of drafting the flyers'. According to P-1743, this was the moment when he learnt that he was detained because of the flyers. P-1743 stated that [REDACTED] then shook his head and left: P-1743: T-087, p. 14. P-1743 testified that [REDACTED], accompanied [REDACTED] during this visit: P-1743: T-087, pp. 14, 16. P-2263 also recalled the [REDACTED] visiting and said that he asked the detainees how they were being treated but they could not tell him the truth as he had Seleka members with him and the detainees believed they would be killed: P-2263: CAR-OTP-2091-3074, at 3086, para. 49.
[3762] P-2295 stated that [REDACTED] was chosen as the [REDACTED] apprehended in relation to the flyers and spoke to Michel Djotodia when the latter asked about '[their] problems', explaining that they had been apprehended because of the flyers calling for a *ville morte*: P-2295: CAR-OTP-2130-9460, at 9466, para. 30. P-1743 confirmed that he was [REDACTED] generally: P-1743: T-089, p. 6. P-2263 and P-2295 stated that Michel Djotodia said that the detainees were innocent and should be released: P-2263: CAR-OTP-2091-3074, at 3086, para. 50; P-2295: CAR-OTP-2130-9460, at 9466, para. 30.
[3763] P-1743: T-089, p. 29; P-1743: T-088, p. 29, referring to [REDACTED].
[3764] P-1743: T-087, p. 16.
[3765] P-1743: T-087, p. 16.
[3766] P-2295: CAR-OTP-2130-9460, at 9466, para. 31.
[3767] P-1743: T-087, p. 17; P-1743: T-088, pp. 23-24, 30-31.
[3768] P-1743: T-088, pp. 30-31.

[REDACTED].[3769] P-2263 stated that the Seleka Commander of Ngaragba prison did not allow the persons detained in relation to the flyers to receive visitors after the lawyers started working on their defence; P-2263 explained that the visits resumed when a different official 'took over' the prison.[3770]

1306. The Chamber received evidence that the detainees were charged with committing an Act of a Nature to Compromise Public Security,[3771] that a trial was held over a few weeks at the *Tribunal de Grande Instance*, from approximately 29 July 2013 to 30 August 2013,[3772] and that the prosecutor was Nicole Mamia Yamathia.[3773] The record of the trial shows and witnesses confirm that the detainees were represented by several lawyers during the proceedings.[3774]

1307. P-2263 stated that they 'did not feel [they] had any rights' during the court proceedings.[3775] P-2263 and P-2295 recalled receiving threats from Seleka members, who told them that they 'should be killed'.[3776] P-1743 stated that the Seleka members pointed a gun to his head each time he went to the courtroom, adding that they took his belongings away from him and said that he deserved to die.[3777] P-2263 testified that armed Seleka members were present in the courtroom during the hearings, which made

[3769] P-1743 testified that [REDACTED]: P-1743: T-087, pp. 19-20, referring to [REDACTED], CAR-OTP-2130-8377. P-1743 confirmed that [REDACTED]: P-1743: T-087, p. 23, referring to [REDACTED] CAR-OTP-2130-8377.
[3770] P-2263: CAR-OTP-2091-3074, at 3085-3086, para. 47.
[3771] Register of the *Tribunal de Grande Instance* in Bangui, CAR-OTP-2135-3202, at 3232-3236; release certificates, CAR-OTP-2089-1242, CAR-OTP-2091-3192. P-1743 also testified that all detainees faced the same charges: P-1743: T-089, p. 5.
[3772] The record of court hearing reflects that the first hearing took place on 29 July, when a plea for the proceedings to be declared invalid was rejected; the arguments opened on 31 July 2013; arguments were made by the detainees' lawyers and the prosecutor in the sessions on 9, 12, 14 August 2013 and another day (date omitted); the detainees pleaded not guilty on 27 August 2013; the verdict was issued on 30 August 2013: records of court hearings, CAR-OTP-2136-0699, at 0702-0740, 0745-0749; CAR-D33-0015-4230, at 4264-4301, 4306-4310. P-1180, P-2263 and P-2295 stated that they were brought to the *Tribunal de Grand Instance* of Bangui several times during their detention at Ngaragba prison: P-1180: CAR-OTP-2043-0483, at 0506, para. 169; P-2263: CAR-OTP-2091-3074, at 3087, para. 54; P-2295: CAR-OTP-2130-9460, at 9466, para. 32.
[3773] Records of court hearings, CAR-OTP-2136-0699, at 0704-0740, 0745-0749; CAR-D33-0015-4230, at 4266-4301, 4306-4310; P-1180: CAR-OTP-2043-0483, at 0507, para. 173, referring to release order dated 30 August 2013, CAR-OTP-2043-0515; P-1743: T-088, p. 22. P-2263 stated that he did not remember the name of the prosecutor, but remembered that she was a woman: P-2263: T-058, pp. 31-32.
[3774] P-2295: CAR-OTP-2130-9460, at 9466, para. 32; records of court hearings, CAR-OTP-2136-0699, at 0711-0740; CAR-D33-0015-4230, at 4273-4301; P-2263: CAR-OTP-2091-3074, at 3087, para. 55. P-1743 stated that during the hearing they were able to meet the lawyers and exchange views, and that the lawyers told the detainees to speak the truth and explain how they were 'arrested', because this is how they could be defended: P-1743: T-087, p. 29.
[3775] P-2263: CAR-OTP-2091-3074, at 3087, para. 55.
[3776] P-2263: CAR-OTP-2091-3074, at 3087, para. 56; P-2295: CAR-OTP-2130-9460, at 9466, para. 29.
[3777] P-1743: T-087, p. 17.

the detainees scared, recalling that they issued death threats against the detainees in front of the judges.[3778] He further observed that Seleka members told the judges what to do and showed no respect for the proceedings.[3779]

1308. The Chamber notes that during the proceedings multiple detainees (namely the Second,[3780] Third,[3781] Fifth,[3782] Seventh,[3783] and the Fourteenth[3784] Detainees) explicitly contradicted the information that had previously been recorded in their *procès-verbaux*, explaining that it did not accurately depict what had happened. Furthermore, the Chamber notes that the Fifteenth Detainee stated during the hearing that no one had read his previous declaration back to him.[3785]

1309. The Chamber received evidence showing that verdicts were delivered in the detainees' cases on 30 August 2013.[3786] Court records of the trial note that three of the detainees (the First, Tenth and Eleventh Detainees), as well as [REDACTED], were acquitted on the ground that no offence had been committed;[3787] the other detainees were convicted and were given suspended sentences of six months (the Second, Third, Fifth, Seventh, Twelfth and Fifteenth Detainees); eight months (the Thirteenth, Fourteenth and Sixteenth Detainees); 10 months (the Ninth Detainee); and 12 months (the Fourth, Sixth and Eighth

[3778] P-2263: CAR-OTP-2091-3074, at 3087, para. 56.
[3779] P-2263 testified that the Seleka had no respect and would talk loudly and take telephone calls when the detainees were giving evidence; in addition, if the telephone of a family member rang during the hearings, Seleka members would walk over and take it: P-2263: CAR-OTP-2091-3074, at 3087, para. 56.
[3780] Records of court hearings, CAR-OTP-2136-0699, at 0712; CAR-D33-0015-4230, at 4274.
[3781] Records of court hearings, CAR-OTP-2136-0699, at 0719-0720; CAR-D33-0015-4230, at 4281-4282.
[3782] Records of court hearings, CAR-OTP-2136-0699, at 0725; CAR-D33-0015-4230, at 4287.
[3783] Records of court hearings, CAR-OTP-2136-0699, at 0722; CAR-D33-0015-4230, at 4284.
[3784] Records of court hearings, CAR-OTP-2136-0699, at 0707; CAR-D33-0015-4230, at 4269.
[3785] Records of court hearings, CAR-OTP-2136-0699, at 0722; CAR-D33-0015-4230, at 4284.
[3786] P-1180: CAR-OTP-2043-0483, at 0506, para. 171; P-2263: T-058, p. 31, referring to judgment of the *Tribunal de Grande Instance* in Bangui, CAR-OTP-2043-0479, at 0479; P-1743: T-087, p. 27. *See also* register of the *Tribunal de Grande Instance* in Bangui, CAR-OTP-2135-3202, at 3232; records of court hearings, CAR-OTP-2136-0699, at 0745-0749; CAR-D33-0015-4230, at 4306-4310; orders of release, CAR-OTP-2043-0515, CAR-OTP-2091-3191, CAR-OTP-2091-0041, at 0043; CAR-OTP-00025571, at 00013; CAR-OTP-2043-0479, at 0480; release certificates, CAR-OTP-2089-1242, CAR-OTP-2091-3192. The Chamber notes an inconsistency between this date and the date of the verdict provided by P-0358, who stated that the detainees were released by mid-July 2013: P-0358: CAR-OTP-2043-0433, at 0447, paras 94-96. The Chamber considers that P-0358 only possesses secondary knowledge of these events, and therefore, insofar as the date of the release of the detainees is concerned, it considers the documentary and testimonial evidence offering a first-hand account of the incident to be reliable.
[3787] Records of court hearings, CAR-OTP-2136-0699, at 0745-0746; CAR-D33-0015-4230, at 4306-4307; register of *Tribunal de Grande Instance* in Bangui, CAR-OTP-2135-3202, at 3232-3233. *See also* P-1180: CAR-OTP-2043-0483, at 0507, paras 172-173, referring to order of release, CAR-OTP-2043-0515.

Detainees).[3788] The Chamber notes that no indication as to the reasoning behind the differences in the length of the sentences exists in the records.

vii. Harm suffered

1310. As regards the harm the witnesses continue to suffer as a result of their detention at the OCRB,[3789] P-1180 stated that he continues to experience constant headaches and that he experiences dizziness and psychological effects and could not close his eyes to fall asleep 'as the images of the horrible things [he] saw haunted [him]'.[3790] P-1743 testified that he suffered ongoing physical injuries in the aftermath of these events and that he has been psychologically affected, noting that when he sees somebody dressed as a soldier with a turban, 'it all floods back to [him]'.[3791] He stated that the fact that the Seleka beat him in the presence of his family has had an 'enormous effect upon [his] entire family' and has marked and humiliated him to such an extent that he is not respected and no longer has authority in his household.[3792] P-2263 stated that he feels 'physically weak', that he is 'always afraid of people in uniform and of guns', and that he often 'cannot sleep when [he] think[s] about what happened to [him] during this time', explaining that he lost his job and that his detention had a negative impact on a number of members of his family.[3793] P-2295 stated that immediately after his release, he was afraid to move around because of the suspended sentence so only his wife could earn money, but that '[t]he arrest did not otherwise affect [his] life'.[3794]

[3788] Records of court hearings, CAR-OTP-2136-0699, at 0745-0749; CAR-D33-0015-4230, at 4306-4310; register of *Tribunal de Grande Instance* in Bangui, CAR-OTP-2135-3202, at 3232-3236. The Chamber notes that there are various inconsistencies among the witnesses' accounts with respect to, first, which persons were acquitted on the ground that no offence had been committed and which were found to be guilty and, second, the length of the suspended sentences that they received. The Chamber does not consider these inconsistencies to be material and attributes them to lapses in the witnesses' memory caused by the passage of time and to perceptions based on their individual experience and on what was significant to them at the time. Consequently, the Chamber is satisfied that, in any event, all detainees were released by the decision received at the *Tribunal de Grande Instance* on 30 August 2013, whether they were acquitted on the ground that no offence had been committed or they were given suspended prison sentences: P-0358: CAR-OTP-2043-0433, at 0447, paras 94, 96; P-1180: CAR-OTP-2043-0483, at 0507, para. 172; P-1743: T-087, pp. 19, 28-29; P-1743: T-089, pp. 4-6; P-2263: CAR-OTP-2091-3074, at 3087, para. 57; P-2263: T-058, p. 29; P-2295: CAR-OTP-2130-9460, at 9466-9467, paras 34, 37, referring to P-2295's release certificate, CAR-OTP-2091-3192, P-2295's order of release, CAR-OTP-2091-3191.

[3789] The Chamber notes the submissions of the CLRV regarding the harm suffered by these detainees: CLRV Closing Brief, ICC-01/14-01/21-1028-Red2, paras 132, 146, 150-151.

[3790] P-1180: CAR-OTP-2043-0483, at 0509, paras 195-196.

[3791] P-1743: T-087, pp. 31-32.

[3792] P-1743: T-087, pp. 36, 40.

[3793] P-2263: CAR-OTP-2091-3074, at 3088, paras 60-63; P-2263: T-058, pp. 22-24.

[3794] P-2295: CAR-OTP-2130-9460, at 9467, para. 35.

g) Incident I

1311. In respect of Incident I, the Chamber considered the evidence of P-1429 and Jean-Claude Sophil, together with documentary evidence.

1312. P-1429 testified that he is a male, Christian of the [REDACTED] ethnicity, who worked as a [REDACTED] at the time of the events.[3795]

1313. P-1429 stated that two [REDACTED] in Bangui in [REDACTED] July 2013.[3796] P-1429 testified that at the request of [REDACTED] agreed to [REDACTED].[3797] P-1429 testified that [REDACTED] was formerly [REDACTED] under François Bozizé.[3798]

1314. P-1429 stated that, after [REDACTED] left [REDACTED], he received a call from [REDACTED], asking him to come to [REDACTED] because there was a problem.[3799] P-1429 testified that, when he and [REDACTED] arrived at [REDACTED], Seleka members, including [REDACTED], told them that the Seleka commander at [REDACTED] had taken [REDACTED] to [REDACTED].[3800] P-1429 stated that he believed he had to find [REDACTED], otherwise the Seleka would kill them, adding that '[t]here was a lot of fear in the air during this time', due to 'stories on the radio of people being abducted by the soldiers' who would 'often be found dead'.[3801]

1315. P-1429 recalled that he went to [REDACTED] to find [REDACTED] and a Seleka

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[3795] P-1429: CAR-OTP-2049-0166, at 0167, 0169, paras 11-12.
[3796] P-1429: CAR-OTP-2049-0166, at 0170, para. 20; addendum to P-1429's prior recorded testimony, CAR-OTP-00000590, at 000002; P-1429: T-040, pp. 34-36, 38-42. *See also* [REDACTED].
[3797] P-1429: CAR-OTP-2049-0166, at 0170, para. 21; P-1429: T-040, pp. 39-41. The Defence argues that there is contradictory evidence regarding this [REDACTED]. The Defence highlights that P-1429 testified that [REDACTED], whereas the order dismissing the proceedings subsequently issued against P-1429 and [REDACTED] indicates that [REDACTED] and mentions only [REDACTED]. *See* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 479, Defence Closing Brief, ICC-01/14-01/21-1039-Conf, para. 479, referring to dismissal order, CAR-OTP-2135-3837 at 3850, P-1429: T-040, p. 41. The Chamber notes that [REDACTED] was released early according to the testimony of P-1429 (P-1429: CAR-OTP-2049-0166, at 0175, para. 57), which may serve to explain why the dismissal order refers to [REDACTED]. As regards the manner in which the transaction was conducted, the Chamber considers that the information which the Defence claims to be contradictory differs only as to the level of detail in the description. In any event, the salient and undisputed point emanating from this evidence is that P-1429 facilitated the transfer of the suitcase from the patient [REDACTED].
[3798] P-1429: CAR-OTP-2049-0166, at 0172, para. 33. P-1429 testified that he only knew [REDACTED] and he only became aware that [REDACTED] under Bozizé subsequently, when [REDACTED] encountered problems with [REDACTED] at the [REDACTED]: P-1429: T-040, pp. 42-43. The Defence argues that it is implausible that P-1429 did not know [REDACTED] given the length of their relationship and the fact that [REDACTED]: Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 480. The Chamber finds no reason to doubt the testimony of P-1429 regarding his knowledge of [REDACTED]'s private life, or to speculate as to the circumstances of [REDACTED] and the extent of [REDACTED] need to [REDACTED] to him.
[3799] P-1429: CAR-OTP-2049-0166, at 0170, paras 21-22.
[3800] P-1429: CAR-OTP-2049-0166, at 0170-0171, paras 22-23.
[3801] P-1429: CAR-OTP-2049-0166, at 0170-0171, paras 23, 25.

soldier informed him that they were not there and that he should search for them at [REDACTED].[3802]

1316. P-1429 testified that he went to [REDACTED], where [REDACTED], who denied having any information about [REDACTED].[3803] However, P-1429 stated that as he was about to leave, he saw [REDACTED] sitting in the back of a pick-up truck with their hands tied, and he informed [REDACTED].[3804] P-1429 explained that [REDACTED] then interrogated [REDACTED] and, when his role in the story became clear, P-1429 was detained alone in a container on the back of a [REDACTED] lorry at the base, where he remained for [REDACTED].[3805]

1317. P-1429 stated that during his detention, he learnt that [REDACTED] had been arrested because [REDACTED], who was a [REDACTED] under François Bozizé, [REDACTED].[3806]

1318. The Chamber observes that Jean-Claude Sophil, who visited [REDACTED] during this time, corroborates P-1429's testimony that P-1429 was detained inside a container at this location.[3807] While the Chamber notes certain differences in the detail of the evidence presented by P-1429 and Jean-Claude Sophil with respect to P-1429's detention,[3808] it does not consider these discrepancies to be significant or to cast doubt on the credibility of their respective accounts. In any event, the Chamber finds P-1429's testimony that Jean-Claude Sophil's visit to [REDACTED] occurred on P-1429's third day of detention and that he was arrested together with [REDACTED] to be more reliable. The Chamber notes in this regard that P-1429 had direct knowledge of the relevant matters and provided

[3802] P-1429: CAR-OTP-2049-0166, at 0171, paras 25-26.
[3803] P-1429: CAR-OTP-2049-0166, at 0171, para. 27.
[3804] P-1429: CAR-OTP-2049-0166, at 0171, para. 28.
[3805] P-1429: CAR-OTP-2049-0166, at 0172, paras 32, 34.
[3806] P-1429: CAR-OTP-2049-0166, at 0172, para. 33.
[3807] P-0787: CAR-OTP-2036-0410, at 0428, para. 85; P-0787: T-037, p. 71.
[3808] For example, Jean-Claude Sophil stated that P-1429 had been in the lorry for 'about 5 or 6 days' when he visited [REDACTED], whereas P-1429 stated that this visit took place on his third day of detention: P-0787: CAR-OTP-2036-0410, at 0428, para. 85; P-1429: CAR-OTP-2049-0166, at 0173, paras 43-45. The Chamber notes that both witnesses affirmed that the visit took place on a Sunday: P-0787: CAR-OTP-2036-0410, at 0427, para. 79; P-0787: T-037, p. 71; P-1429: CAR-OTP-2049-0166, at 0173, para. 43. Moreover, P-1429 testified that [REDACTED] were arrested, whereas Jean-Claude Sophil stated that [REDACTED] was arrested. P-0787: CAR-OTP-2036-0410, at 0428, para. 86; P-0787: T-037, p. 72; addendum to P-0787's prior recorded testimony, CAR-OTP-00000594, at 000006-000007. *See* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 479, Defence Closing Brief, ICC-01/14-01/21-1039-Conf, para. 479, referring to P-0787: T-037, p. 72. The Chamber notes that [REDACTED]. *See* above para. [REDACTED].

specific information and further details when requested,[3809] whereas Jean-Claude Sophil did not clarify and was never questioned as to how the relevant information came to his knowledge.

1319. On the whole, the Chamber is satisfied that Jean-Claude Sophil's testimony corroborates P-1429's account of his arrest, detention at [REDACTED] and subsequent transfer to the OCRB. P-1429 and Jean-Claude Sophil gave evidence that on the Sunday when Jean-Claude Sophil visited [REDACTED], a Seleka member took P-1429 out of the container and escorted him to a table in the [REDACTED] where a number of individuals were seated, including [REDACTED], [REDACTED], [REDACTED] Sophil, [REDACTED] and [REDACTED].[3810] P-1429 recalled that he saw [REDACTED] standing.[3811] P-1429 stated that [REDACTED] interrogated him and he explained [REDACTED].[3812] According to P-1429, [REDACTED] responded that [REDACTED].[3813] Jean-Claude Sophil testified that [REDACTED] stated that P-1429 was [REDACTED].[3814]

1320. Jean-Claude Sophil testified that [REDACTED].[3815] Jean-Claude Sophil explained that, because [REDACTED].[3816]

1321. P-1429 and Jean-Claude Sophil testified that the Seleka put the prisoners in a convoy of vehicles and took them to the OCRB.[3817] P-1429 stated that, upon arrival, the [REDACTED] introduced Colonel Mahammat Said to P-1429 as the head of the OCRB.[3818] The witness testified that the [REDACTED] told Mr Said to [REDACTED].[3819]

1322. Subsequently, P-1429 testified that Colonel Said gave the order to put him in a cell, which

[3809] P-1429: T-040, pp. 35-36.
[3810] P-1429: CAR-OTP-2049-0166, at 0173, paras 43-45; P-0787: CAR-OTP-2036-0410, at 0428, paras 85-87.
[3811] P-1429: CAR-OTP-2049-0166, at 0173, para. 43.
[3812] P-1429: CAR-OTP-2049-0166, at 0173, para. 45.
[3813] P-1429: CAR-OTP-2049-0166, at 0173, para. 45.
[3814] P-0787: CAR-OTP-2036-0410, at 0428, para. 86; addendum to P-0787's prior recorded testimony, CAR-OTP-00000594, at 000006-000007.
[3815] P-0787: CAR-OTP-2036-0410, at 0428, para. 87.
[3816] P-0787: CAR-OTP-2036-0410, at 0428, para. 87.
[3817] P-1429: CAR-OTP-2049-0166, at 0174, paras 47-48; P-0787: CAR-OTP-2036-0410, at 0428, para. 87; P-0787: T-037, p. 72.
[3818] P-1429: CAR-OTP-2049-0166, at 0174, para. 48; addendum to P-1429's prior recorded testimony, CAR-OTP-00000590, at 000002. P-1429 correctly identified Mr Said in some photographs: addendum to P-1429's prior recorded testimony, CAR-OTP-00000590, at 000003, referring to photographs, CAR-OTP-2094-2006, CAR-OTP-2069-3227.
[3819] P-1429: CAR-OTP-2049-0166, at 0174, para. 48; addendum to P-1429's prior recorded testimony, CAR-OTP-00000590, at 000002.

he shared with [REDACTED] other prisoners, [REDACTED].[3820] He stated that [REDACTED] was locked up in a cell nearby, while [REDACTED] stayed [REDACTED] and slept [REDACTED] in front of the cells.[3821] P-1429 testified that his cell door was unlocked and that the Seleka would allow them out of their cells for a few hours on most days.[3822] P-1429 stated that [REDACTED] would bring food for him while he was detained at the OCRB.[3823] P-1429 recalled that some prisoners were beaten, tortured and subjected to other forms of ill-treatment[3824] and that the Seleka members regularly beat the detainees using whips made from tyres while throwing water on them.[3825] P-1429 further testified that the Seleka would periodically take prisoners from the cells, mostly during the night, and put them in OCRB vehicles, following which the prisoners did not come back.[3826]

1323. P-1429 testified that the Seleka took him to the tribunal for the first time one week after P-1429 had been placed in detention at the OCRB but stated that, on that occasion, 'we didn't see anyone'.[3827] According to P-1429, his [REDACTED] was released after one week of detention at the OCRB.[3828] P-1429 stated that an investigator 'often interviewed them in his OCRB office, but it didn't move things along'.[3829] P-1429 testified that the Seleka 'took [them] to the tribunal for a second time' and introduced them to the judges,[3830] and that, after [REDACTED] more visits to the tribunal, he and [REDACTED] were provisionally released in [REDACTED] August 2013 'after

[3820] P-1429: CAR-OTP-2049-0166, at 0174, paras 48, 54-55. [REDACTED] (P-0645) was alleged to have been detained at the OCRB for about six weeks from [REDACTED] July 2013 (Incident D): Confirmation of Charges Decision, ICC-01/14-01/21-218-Red, pp. 54-55. Regarding [REDACTED] detention, *see* below para. 1169.
[3821] P-1429: CAR-OTP-2049-0166, at 0175, para. 56-57, referring to sketch of OCRB drawn by P-1429, CAR-OTP-2043-0332, and indicating that he was held in the cell marked [REDACTED] and [REDACTED] in the cell marked [REDACTED] in the cellblock identified with [REDACTED] in his sketch. The Chamber notes that when P-1429 was shown a photograph of the block of cells [REDACTED] of the OCRB compound, he confirmed that he was held in the [REDACTED]. *See* addendum to P-1429's prior recorded testimony, CAR-OTP-00000590, at 000003, referring to photograph, CAR-OTP-2033-6871. *See also* photographs of [REDACTED] the compound, CAR-OTP-2033-6944, CAR-OTP-2033-6946, CAR-OTP-2033-6948, CAR-OTP-2033-6955, CAR-OTP-2033-6979.
[3822] P-1429: CAR-OTP-2049-0166, at 0175, paras 58, 61.
[3823] P-1429: CAR-OTP-2049-0166, at 0175, para. 61.
[3824] P-1429: T-040, p. 21.
[3825] P-1429: CAR-OTP-2049-0166, at 0175, para. 62.
[3826] P-1429: CAR-OTP-2049-0166, at 0176, para. 63.
[3827] P-1429: CAR-OTP-2049-0166, at 0177, para. 70.
[3828] P-1429: CAR-OTP-2049-0166, at 0175, para. 57.
[3829] P-1429: CAR-OTP-2049-0166, at 0177, para. 70.
[3830] P-1429: CAR-OTP-2049-0166, at 0177, para. 70.

[REDACTED] days in detention' at the OCRB.[3831] P-1429 testified that the judges did not provide the reasons for their detention, but that when they were provisionally released, they were sent to an investigative judge who informed them that they '[REDACTED]'.[3832] P-1429's evidence is corroborated by a copy of the relevant court order stating that the proceedings against them were ultimately dismissed on [REDACTED] September 2013 due to insufficient evidence.[3833]

1324. The Prosecution asserts that the detention of P-1429 is corroborated by [REDACTED]'s testimony to the effect that a [REDACTED] were being detained at the OCRB, accused of being [REDACTED].[3834] The Chamber is satisfied on the basis of the evidence outlined above that P-1429 was detained at the OCRB for the relevant period.

1325. As regards the harm P-1429 suffered as a result of his detention at the OCRB,[3835] P-1429 indicated that, at the time of the events, he felt that he was treated properly during his detention.[3836] In the context of his testimony as a whole, the Chamber understands this to mean that he was not subjected to physical mistreatment and not that the conditions of his detention were adequate. P-1429 stated that, following his release from OCRB custody, he has experienced after-effects, including developing hypertension for which he is 'being treated' and takes medication every day.[3837] According to P-1429, [REDACTED] told him following their release that they had not 'been tortured during their detention at the OCRB'.[3838]

h) Incident J

1326. In respect of Incident J, the Chamber considered the evidence of P-2931, who is one of the victims of and a witness to the events, [REDACTED], as well as documentary

[3831] P-1429: CAR-OTP-2049-0166, at 0176-0177, paras 68, 70-71. The Chamber is satisfied that P-1429's second visit to the tribunal occurred during his [REDACTED] week of detention, as he testified that it took place a few days after one of the detainees, [REDACTED], was released from detention and he recalled that [REDACTED] was arrested during the third week of his detention and immediately released. The Chamber notes that P-1429 did not specify whether this number includes the first few days he spent in detention at [REDACTED]. Therefore, the Chamber approximates P-1429's time in detention at the OCRB to be [REDACTED] days.
[3832] *See* addendum to P-1429's prior recorded testimony, CAR-OTP-00000590, at 000002 (in which P-1429 made amendments to para. 70 of his prior recorded testimony, CAR-OTP-2049-0166).
[3833] Addendum to P-1429's prior recorded testimony, CAR-OTP-00000590, at 000002; P-1429: T-040, pp. 18-19, referring to court order, CAR-OTP-2135-3837, at 3849-3850.
[3834] Prosecution Closing Brief, ICC-01/14-01/21-1027-Red, [REDACTED], referring to [REDACTED].
[3835] The Chamber notes the submissions of the CLRV in this respect: CLRV Closing Brief, ICC-01/14-01/21-1028-Red2, para. 146.
[3836] P-1429: T-040, p. 20.
[3837] P-1429: T-040, p. 23.
[3838] P-1429: CAR-OTP-2049-0166, at 0177, para. 71.

evidence.

1327. P-2931 stated that he was a Christian,[3839] and, at the time of the events described below, he was [REDACTED] years old,[3840] and [REDACTED].[3841] According to the witness, he lived in [REDACTED] Bangui with [REDACTED] Oswald Sanze,[3842] a member of the FACA,[3843] and a young man from the neighbourhood named [REDACTED].[3844]

1328. P-2931 described an intervention undertaken by the Seleka at the house where they lived. Initially, he stated that this occurred on [REDACTED] June 2013, but later corrected this date to [REDACTED] July 2013.[3845] The Chamber observes that the correction was triggered by a request for clarification by the Prosecution after P-2931's initial statement and, in this context, additional information and documentation was presented to P-2931 by the Prosecution.[3846] Considering the evidence presented, the Chamber is satisfied that P-2931's basis for correcting the date is sound and that the intervention described below occurred on [REDACTED] July 2013.

1329. P-2931 testified that, [REDACTED], after Oswald Sanze and [REDACTED] had [REDACTED], someone knocked on the door looking for Oswald Sanze.[3847] P-2931 stated that Oswald Sanze came out of his bedroom and asked who was there and someone

[3839] P-2931: CAR-OTP-2135-4093, at 4101, para. 51.
[3840] P-2931: T-046, p. 36.
[3841] P-2931: CAR-OTP-2135-4093, at 4096-4097, 4102, paras 12, 19, 58.
[3842] P-2931: CAR-OTP-2135-4093, at 4096, para. 12. P-2931 explained that Oswald Sanze [REDACTED] and considered him as his '[REDACTED]': P-2931: CAR-OTP-2135-4093, at 4097, para. 18; addendum to P-2931's prior recorded testimony, CAR-OTP-00000802, at 000003.
[3843] P-2931: CAR-OTP-2135-4093, at 4097, para. 18. *See also* addendum to P-2931's prior recorded testimony, CAR-OTP-00000802, at 000003, referring to Oswald Sanze's military ID, CAR-OTP-2128-0747; P-2931: T-046, pp. 31-32.
[3844] P-2931: CAR-OTP-2135-4093, at 4097, para. 17; P-2931: T-046, pp. 35-36. [REDACTED]: P-2931: T-046, pp. 36-37.
[3845] P-2931: CAR-OTP-2135-4093, at 4097, para. 17; P-2931: CAR-OTP-2135-4106, at 4109, paras 15, 17; addendum to P-2931's prior recorded testimony, CAR-OTP-00000802, at 000002.
[3846] P-2931 was informed that he had told Prosecution investigators when he had previously spoken with them over the phone that he was 'detained' on [REDACTED] July 2013. He recalled that he was 'arrested' on a [REDACTED] and the investigators informed him that [REDACTED] July 2013 was a [REDACTED] while [REDACTED] June 2013 was a [REDACTED]. *See* P-2931: CAR-OTP-2135-4106, at 4109, paras 12-13; addendum to P-2931's prior recorded testimony, CAR-OTP-00000802, at 000002. In addition, the Prosecution showed P-2931 the morgue register of the hospital (Hôpital Communautaire), in which P-2931 noted that Oswald Sanze was registered on [REDACTED] July 2013, as well as a [REDACTED] which stated that the incident (including P-2931's arrest) took place [REDACTED] July 2013. *See* P-2931: CAR-OTP-2135-4106, at 4109, para. 15, referring to [REDACTED]; P-2931: CAR-OTP-2135-4106, at 4109, para. 16, referring to [REDACTED]. P-2931 affirmed in court that the incident at the house took place around [REDACTED] July 2013: P-2931: T-046, pp. 65-66.
[3847] P-2931: CAR-OTP-2135-4093, at 4097, para. 19; P-2931: T-046, pp. 65-66.

loudly replied, 'OCRB Service'.[3848] P-2931 testified that Oswald Sanze went back to his bedroom and the individuals outside broke down the door and entered the house.[3849] P-2931 recalled that three individuals whom he recognised to be Seleka[3850] pointed their weapons at him[3851] and he thought they were going to kill him.[3852] P-2931 stated that one of the Seleka members grabbed him by the collar and took him out of the house.[3853]

1330. P-2931 recalled that, as he was being taken out, he heard Oswald Sanze ask 'What did I do?', and then heard the sound of gunfire.[3854] [REDACTED], was outside the house and in a position to provide further details regarding how events unfolded. He explained that the FACA member (Oswald Sanze) 'jumped out of the window in order to flee', and a member of the Seleka who had 'a heavy weapon in the second vehicle fired at him and he fell'.[3855] [REDACTED] clarified that the FACA member was shot in the head and injured.[3856]

1331. P-2931 recalled that there were many armed Seleka members and vehicles outside the house,[3857] and that a member of the Seleka who he thought was the leader ordered the others to put P-2931 into the back of a pick-up truck.[3858] He testified that he complied with their instructions and lay down in the back of the truck, and was covered with a

[3848] P-2931: CAR-OTP-2135-4093, at 4097, para. 20.
[3849] P-2931: CAR-OTP-2135-4093, at 4097, paras 20-21; P-2931: T-046, p. 41.
[3850] P-2931: CAR-OTP-2135-4093, at 4097, para. 21. P-2931 stated that two of them were in military uniform, and they were all armed with Kalashnikovs, had their faces and heads covered with Chadian turbans (*kadamouls*), were dark skinned and spoke Arabic to one another: P-2931: CAR-OTP-2135-4093, at 4097, paras 21-22. During his preparation session, prior to his in-court evidence, P-2931 was shown photographs, CAR-OTP-2094-1939 and CAR-OTP-2094-1941, in which he circled and marked with '1' and '2' two out of the three OCRB Seleka members: addendum to P-2931's prior recorded testimony, CAR-OTP-00000802, at 000004, referring to annotated photographs, CAR-OTP-00000804 and CAR-OTP-00000805. [REDACTED], in his evidence, identified the person marked by P-2931 with '1' as [REDACTED], referring to annotated photograph, [REDACTED].
[3851] P-2931 stated that one of the Seleka aimed his weapon at his chest, another at his neck and the third one at his forehead: P-2931: CAR-OTP-2135-4093, at 4097, para. 21; P-2931: T-046, p. 41.
[3852] P-2931: CAR-OTP-2135-4093, at 4097, para. 23.
[3853] P-2931: CAR-OTP-2135-4093, at 4097, para. 23; P-2931: T-046, p. 41.
[3854] P-2931: CAR-OTP-2135-4093, at 4097, para. 24. The Defence argues that P-2931 testified that Oswald Sanze was shot inside the house: Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 488. In the Chamber's reading of P-2931's evidence, there is no indication of where Oswald Sanze was shot. The witness indicated that he was in another room and not in a position to know what happened after Oswald Sanze went into the bedroom. *See* P-2931: CAR-OTP-2135-4093, at 4097, paras 20, 24.
[3855] [REDACTED] members of the Seleka went into the house to apprehend the two young men, [REDACTED] and that after the suspect was shot and injured [REDACTED] helped to put him into the vehicle: [REDACTED].
[3856] [REDACTED].
[3857] P-2931: CAR-OTP-2135-4093, at 4098, paras 25-26.
[3858] P-2931: CAR-OTP-2135-4093, at 4097-4098, 4100, paras 24-26, 41.

'canvas sheet' or a tarpaulin.[3859]

1332. P-2931 stated that, around 10 minutes later, Seleka members threw something heavy on him.[3860] P-2931 realised that it was Oswald Sanze and could hear that he was 'breathing with difficulty' and was in 'agony'.[3861] P-2931 testified that he could smell Oswald Sanze's blood, which was 'pouring from his body' and 'dripping onto [his] clothing through the canvas sheet' and that he realised Oswald Sanze 'was almost dead'.[3862]

1333. According to P-2931, around five minutes later, some Seleka members got into the back of the truck and the vehicle was driven to the Hôpital Communautaire in Bangui, where some Seleka members got out and returned around 15 minutes later.[3863] P-2931 stated that he could still hear that Oswald Sanze was in agony.[3864] P-2931 stated that he heard the Seleka member who he thought was the leader telling the others that Oswald Sanze should be left at the morgue.[3865] P-2931 understood that the Seleka member thought that Oswald Sanze was already dead.[3866] He testified that they left Oswald Sanze's body on the ground,[3867] and that, after his (P-2931's) release, his parents told him that they had found Oswald Sanze's body at the morgue.[3868]

1334. The Chamber notes that P-2931's testimony regarding the death of Oswald Sanze is corroborated by the morgue register of the Hôpital Communautaire, which shows that Oswald Sanze's death was registered there on [REDACTED] July 2013.[3869]

1335. P-2931's testimony regarding the events at Oswald Sanze's house that evening is also

[3859] P-2931: CAR-OTP-2135-4093, at 4098, para. 26; P-2931: T-046, pp. 40-41.
[3860] P-2931: CAR-OTP-2135-4093, at 4098, para. 27.
[3861] P-2931: CAR-OTP-2135-4093, at 4098, para. 27; P-2931: T-046, p. 41.
[3862] P-2931: CAR-OTP-2135-4093, at 4098, para. 27.
[3863] P-2931: CAR-OTP-2135-4093, at 4098, paras 28-30. P-2931 clarified that he heard a member of the Seleka suggest in Sango that they drop P-2931 along with Oswald Sanze's body at the morgue, and that this is how P-2931 understood that they were at the morgue of the hospital: P-2931: CAR-OTP-2135-4093, at 4098-4099, paras 29-30, 32.
[3864] P-2931: CAR-OTP-2135-4093, at 4098, para. 30.
[3865] P-2931: CAR-OTP-2135-4093, at 4098-4099, paras 30-32; addendum to P-2931's prior recorded testimony, CAR-OTP-00000802, at 000001.
[3866] P-2931: CAR-OTP-2135-4093, at 4098, para. 30.
[3867] P-2931: CAR-OTP-2135-4093, at 4099, para. 32.
[3868] P-2931: CAR-OTP-2135-4093, at 4102, para. 55.
[3869] Mortuary register, CAR-OTP-2044-0734, at 0790. The Chamber notes that the Defence asserts that the morgue register is unreliable, querying how it would be medically possible to conclude from an examination of the body that the victim was killed by an OCRB bullet: Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 485; Defence Response to the Sixth Bar Table Application, ICC-01/14-01/21-360-Red, paras 8-10. The Chamber is satisfied that the register is reliable in relation to the date of death of Oswald Sanze and his registration at the morgue. The Chamber has no information as to how, when or on what basis the notes in red ink were added to the register and does not rely on the register to establish Oswald Sanze's cause of death.

corroborated by [REDACTED]. While [REDACTED] did not specifically name the victims who were killed and detained in the operation he described, the Chamber is satisfied that his testimony pertained to the arrest of P-2931 and [REDACTED] and the killing of Oswald Sanze given the similarity of the accounts of the two witnesses. In this regard, the Chamber notes that [REDACTED] stated that the OCRB Seleka undertook a [REDACTED] operation to question a FACA member at a house in the 4th arrondissement [REDACTED],[3870] the FACA member was shot in the head during the operation, two young men were apprehended at the location,[3871] the FACA member was dropped off at the hospital, the two young men were taken to the OCRB[3872] and [REDACTED] the following day that the FACA member had died and that the young men were [REDACTED].[3873] [REDACTED] clarified that the two young men were [REDACTED] 'arrested' as they were present with Oswald Sanze in his home and were subsequently identified [REDACTED].[3874] The Chamber considers that this evidence shows that the identities of P-2931 and [REDACTED] were not known to the Seleka at the time that they were detained.

1336. The Defence highlights certain differences between the statement [REDACTED] initially gave to Prosecution investigators and his in-court evidence in relation to this operation.[3875] The Chamber notes [REDACTED]'s explanation that the statement he gave to the Prosecution investigators was a summary, that there appears to have been some confusion and not all the details were summarised or transcribed correctly.[3876] The witness was forthcoming in providing further details and clarifications regarding the execution of the operation when he testified and the Chamber has no doubt that the account he provided in court is credible and reliable.[3877]

1337. The Chamber notes that the accounts of P-2931 and [REDACTED] differ as regards the

[3870] [REDACTED]. The Chamber notes that parts of the [REDACTED], where Oswald Sanze's house was located, are in the [REDACTED]: P-2263: CAR-OTP-2089-1229, at 1231, para. 13; P-0119: T-083, p. 46.
[3871] [REDACTED].
[3872] [REDACTED].
[3873] [REDACTED].
[3874] [REDACTED].
[3875] The Defence submits that, [REDACTED]: Defence Closing Brief, ICC-01/14-01/21-1039-Red, paras 487-488, Defence Closing Brief, ICC-01/14-01/21-1039-Conf, paras 487-488.
[3876] The Chamber observes that some confusion may be attributable to the witness's account of having [REDACTED] and the witness's explanation that he heard about the instructions regarding the operation from [REDACTED] and that he was not present himself when the instructions were given: [REDACTED].
[3877] *Contra* Defence Closing Brief, ICC-01/14-01/21-1039-Red, paras 487-488, Defence Closing Brief, ICC-01/14-01/21-1039-Conf, paras 487-488.

exact time of the operation,[3878] and they describe the operation in different levels of detail, particularly regarding the treatment of the occupants of the house.[3879] The Chamber considers that these differences are understandable considering the passage of time, the violent nature of the event and the fact that each witness observed and experienced this event from different locations and perspectives. The Chamber is satisfied that both P-2931 and [REDACTED] are credible and reliable, and that they substantially support each other's account of this operation.[3880]

1338. The Chamber observes that [REDACTED] was also able to provide additional information about the planning and conduct of the intervention. He testified that the intervention was ordered by Colonel Said, who instructed a team to 'arrest' a FACA member who was meant to be 'Anti-Balaka' and was recruiting people to the 'Anti-Balaka', distributing leaflets, and committing armed robbery.[3881] [REDACTED] stated that [REDACTED] led the team that undertook the operation,[3882] and clarified that it was

[3878] [REDACTED] stated that the Seleka went to Oswald Sanze's house [REDACTED], while P-2931 testified that the operation occurred around midnight: [REDACTED]; P-2931: CAR-OTP-2135-4093, at 4097, para. 19. *See* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 488.
[3879] *See, for example*, [REDACTED]; P-2931: CAR-OTP-2135-4093, at 4097-4098, paras 20-21, 24, 27; P-2931: T-046, p. 41.
[3880] *Contra* Defence Closing Brief, ICC-01/14-01/21-1039-Red, paras 487-488, Defence Closing Brief, ICC-01/14-01/21-1039-Conf, paras 487-488.
[3881] [REDACTED]. Based on the Chamber's assessment of the evidence regarding the Seleka's knowledge (or lack thereof) of the existence of the Anti-Balaka before September 2013 and the lack of clarity as to whether the name Anti-Balaka had been adopted by June 2013, the Chamber considers [REDACTED]'s reference to the 'Anti-Balaka' to reflect a level of knowledge and a perspective of events that he acquired subsequently rather than information that he would have had at the time.
[3882] [REDACTED]. The Chamber notes that other evidence supports [REDACTED]'s testimony that [REDACTED] was stationed at the OCRB around this time: [REDACTED] *Ordre de Mission*, CAR-OTP-2034-3096, signed by Nouradine Adam, mentions '[REDACTED]' as a 'Lieutenant OCRB (Seleka)'. The Chamber notes the objections of the Defence in relation to this document: Defence Response to the First Bar Table Application, ICC-01/14-01/21-292-Corr-Red, paras 32, 38-62, Defence Response to the First Bar Table Application, ICC-01/14-01/21-292-Conf-Corr, paras 32, 38-62. The Prosecution's investigation reports, CAR-OTP-2122-4152, CAR-OTP-2135-2461, albeit prepared later, clearly state how this document was collected from the CAR Ministry of Public Security. The chain of custody of this document is clear since its collection by the Prosecution and there is nothing in the evidence that raises any questions about the time when the document was in the custody of the CAR Ministry of Public Security. Therefore, the Chamber considers the Defence's submissions in this regard to be speculative. Moreover, the Chamber notes that there is a [REDACTED] *Ordre de Mission*, CAR-OTP-2034-2876, also signed by Nouradine Adam, also mentioning '[REDACTED]' as a 'Lieutenant OCRB (Seleka)'. The Chamber notes that P-0435, [REDACTED]: P-0435: T-041, p. 8; P-0435: CAR-OTP-2136-0576, at 0584-0585, para. 43. The two mission orders have the same structure, format, and identical insignia and stamps, and thus are authentic. The Chamber also notes a [REDACTED] decision of the *Ministre délégué chargé de la défense nationale, de la restructuration de l'armée, des anciens combattants et des victimes de guerre*, incorporating young recruits into the FACA, listing '[REDACTED]'. *See* decision of Minister of Defence [REDACTED], CAR-OTP-2100-0825, at 0890, line 2339. *See also* partial duplicate, CAR-OTP-2067-0120, at 0182, line 2339. The Defence made submissions regarding the authenticity of this document (and of the partial duplicate) in response to the Prosecution's bar table motion(s): Defence Response to the Second Bar Table Application, ICC-01/14-01/21-299-Red, paras 22, 29, 32-38, Defence Response to the Second Bar Table

[REDACTED] who received the order directly from Colonel Said and transmitted the information to [REDACTED].[3883] [REDACTED] stated that the team was told by [REDACTED] that Mr Said got 'angry' after [REDACTED] and told [REDACTED] to bring him back 'dead or alive'.[3884]

1339. [REDACTED] testified that the intervention was carried out by a joint team of Seleka and police, but the information he provides confirms that all relevant actions described above were carried out by the Seleka.

1340. P-2931 testified that, [REDACTED], he was brought to a location that he did not recognise and was later told by a fellow detainee that he was at the OCRB.[3885] The Chamber is satisfied that the information provided was reliable, given that the witness was able to identify the site at which he was detained in photographs of the OCRB, to provide a sketch of the compound and to identify and describe the activities of Seleka personnel at the OCRB as described below.[3886]

1341. In this regard, [REDACTED] stated that they 'presented the two [REDACTED]' to Colonel Said and left, and that a report on the intervention had to be made to Colonel Said, which [REDACTED] would have provided orally.[3887]

Application, ICC-01/14-01/21-299-Conf, paras 22, 29, 32-38; Defence Response to the Sixth Bar Table Application, ICC-01/14-01/21-360-Red, para. 8. The testimonies of P-2563 and P-2573 indicate that the document is authentic: P-2573: T-092, pp. 42-44; P-2563: T-115, p. 57. As regards the differences in spelling, the Chamber notes that, in a document titled *Liste Generale Elements OCRB Central*, CAR-OTP-2082-0458, [REDACTED] recognised the name '[REDACTED]' and stated that the last name should be spelled '[REDACTED]': [REDACTED]. *See also* [REDACTED], referring to list, CAR-OTP-2081-0062. The Chamber is satisfied that the differences in the spelling of the last name [REDACTED] is an issue of transliteration, and that all the documents cited are referring to the same person. Therefore, the Chamber is satisfied that [REDACTED] was stationed at the OCRB around this time.

[3883] [REDACTED]. The Chamber notes that [REDACTED]'s evidence that Colonel Said gave the order for the operation to be carried out is based on hearsay. The Chamber is satisfied that this evidence is reliable given the wider circumstances in which the information was relayed to [REDACTED] by [REDACTED]. In this regard, the Chamber notes in particular that: (i) Mr Said was in charge of the OCRB (*see* above para. 913); (ii) [REDACTED] was stationed at the OCRB and led the operation: [REDACTED]; (iii) [REDACTED]; and (iv) P-2931 and another man were presented to Mr Said after being brought to the OCRB that night: [REDACTED].

[3884] [REDACTED].

[3885] P-2931: CAR-OTP-2135-4093, at 4099-4100, paras 33-35, 42. P-2931 stated that he knew the time because a member of the Seleka asked about and was told by another member the time.

[3886] P-2931: CAR-OTP-2135-4093, at 4099, para. 35, referring to sketch of OCRB drawn by P-2931, CAR-OTP-2135-2258; P-2931: T-046, pp. 16-17; addendum to P-2931's prior recorded testimony, CAR-OTP-00000802, at 000003, referring to photographs, CAR-OTP-2033-6811, CAR-OTP-2033-7154, CAR-OTP-2033-6871, CAR-OTP-2033-7064, CAR-OTP-2033-6907, CAR-OTP-2033-7068.

[3887] [REDACTED]. In this regard, [REDACTED] stated that upon returning from a mission the duty officer must make an oral report to the leader who had sent them on the mission. Additionally, the Chamber notes that P-2931 did not mention Mr Said's presence when he arrived at the OCRB. Considering the distressing events that P-2931

1342. P-2931 stated that, after he was taken out of the vehicle, a member of the Seleka who was seated in a chair in the courtyard ordered other Seleka members to tie him up.[3888] P-2931 stated that the individual seated in the chair 'appeared to be one of the leaders'.[3889] P-2931 identified this person in photographs of the Seleka, and based on the evidence of other credible and reliable witnesses it is clear that the person identified is Tahir.[3890]

1343. The Chamber notes that the P-2931's identification of the Seleka member who 'appeared to be one of the leaders' was complicated by the fact that P-2931 also identified him in a photograph of Mr Said during the witness preparation session.[3891] The Chamber is satisfied that P-2931 was mistaken in relation to this photograph, considering that in court he clearly indicated (by annotating a photograph) that Tahir was the OCRB Seleka leader he had referred to in his statement.[3892] Additionally, during his preparation session, he was unable to recognise Mr Said (or the Seleka member who P-2931 said 'appeared to be one of the leaders') in other photographs of Mr Said that would have more closely aligned with his appearance when he was at the OCRB.[3893] Therefore, the Chamber is

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had just experienced (including his [REDACTED] death), his inability to recognise or recall everyone present at the OCRB when he was brought there does not impact the credibility and the reliability of [REDACTED]'s testimony on this point.

[3888] P-2931: CAR-OTP-2135-4093, at 4099, para. 37. P-2931 testified that the Seleka member was sitting 'near the tent outside [in] the courtyard', which he indicated to be in front of the cellblock, to the rear of the OCRB compound on the sketch he drew: P-2931: CAR-OTP-2135-4093, at 4099, para. 35, referring to sketch of OCRB drawn by P-2931, CAR-OTP-2135-2258.

[3889] P-2931: CAR-OTP-2135-4093, at 4099, para. 37.

[3890] P-2931: T-046, pp. 74-75, referring to photograph, CAR-OTP-2094-1928 (annotated version, CAR-REG-0002-0106). *See also* addendum to P-2931's prior recorded testimony, CAR-OTP-00000802, at 000003- 000004, referring to photograph, CAR-OTP-2094-1928; P-2931: CAR-OTP-2135-4093, at 4099, para. 37, and addendum to P-2931's prior recorded testimony, CAR-OTP-00000802, at 000001, referring to photograph, CAR-OTP-2135-2259. The Chamber notes that Tahir was identified by several witnesses in a number of photographs of the closing ceremony of the OCRB. *See* [REDACTED], referring to photograph CAR-OTP-2094-1928, [REDACTED], referring to CAR-OTP-2069-3227 and CAR-OTP-2094-1928; [REDACTED], referring to CAR-OTP-2069-3227 ([REDACTED]); [REDACTED], referring to CAR-OTP-2069-3227 ([REDACTED]); [REDACTED], referring to CAR-OTP-2094-1928 ([REDACTED]); [REDACTED], referring to CAR-OTP-2069-3245 ([REDACTED]); [REDACTED], referring to CAR-OTP-2069-3228 ([REDACTED]); [REDACTED], referring to CAR-OTP-2069-3228; [REDACTED], referring to CAR-OTP-2069-3245.

[3891] Addendum to P-2931's prior recorded testimony, CAR-OTP-00000802, at 000004, referring to photograph, CAR-OTP-2094-2006. Other witnesses identified the person depicted as Mr Said: *see* above para. 6; P-3064: T-075, pp. 11-12, referring to photograph, CAR-OTP-2094-2006.

[3892] P-2931: T-046, pp. 74-75, referring to photograph, CAR-OTP-2094-1928 (annotated version, CAR-REG-0002-0106).

[3893] P-2931 did not recognise Mr Said in photographs CAR-OTP-2094-1928 and CAR-OTP-2069-3226, which were also shown to him: addendum to P-2931's prior recorded testimony, CAR-OTP-00000802, at 000003-000004. Other witnesses affirmed that Mr Said was one of the persons depicted. *See, for example*, [REDACTED], referring to photographs, CAR-OTP-2094-1928 ([REDACTED]); addendum to P-1429's prior recorded testimony, CAR-OTP-00000590, at 000003, referring to photograph, CAR-OTP-2069-3227; [REDACTED], referring to photographs, CAR-OTP-2069-3226 ([REDACTED]), CAR-OTP-2069-3227 ([REDACTED]); P-2241: CAR-OTP-2092-3851, at 3872, referring to photograph, CAR-OTP-2069-3226; addendum to P-2241's prior recorded testimony, CAR-OTP-00025608, at 000001, referring to photograph, CAR-OTP-2069-3226; P-

satisfied that the person P-2931 stated 'appeared to be one of the leaders' is Tahir.

1344. P-2931 stated that he was made to sit on the ground with his arms stretched out alongside his legs, and his arms and legs were tied together with a rope called 'Roselle'.[3894] P-2931 stated that he was unable to move and lay on the ground on his side.[3895] P-2931 further testified that he was not 'tortured' and was not subjected to any 'bad treatment'.[3896] On this point, the Chamber understands that P-2931 meant that he had not been mistreated in the manner of his fellow detainees, 'who had wounds due to the fact that they had been tied up', given that, according to him, if he were 'tortured' he would have been in a worse state.[3897]

1345. P-2931 stated that the Seleka leader, whom the Chamber understands to be Tahir, questioned him about a weapon belonging to [REDACTED] and when he denied knowing anything about it, slapped him, and then ordered that he be put in the 'basement'.[3898] According to P-2931, he was dragged across the ground in the rain by one of the Seleka members, but due to the intervention of a Seleka member who appeared to be the leader, he was untied and put in a prison cell instead.[3899]

1346. P-2931 described the cell to be around three metres squared, with the paint on the walls

2400: T-030, pp. 41-44, referring to photographs, CAR-OTP-2069-3226 (annotated version, CAR-REG-0002-0072), CAR-OTP-2069-3227 (annotated version, CAR-REG-0002-0073); addendum to P-2607's prior recorded testimony, CAR-OTP-00000751, at 000005, referring to photograph, CAR-OTP-2069-3226; P-3064: T-075, pp. 11-12, referring to photographs, CAR-OTP-2069-3226, CAR-OTP-2069-3227; [REDACTED], referring to photographs, CAR-OTP-2094-1927, CAR-OTP-2094-1928; [REDACTED], referring to photographs, CAR-OTP-2069-3226, CAR-OTP-2094-1927, CAR-OTP-2094-1928; P-1737: T-044, pp. 66-69, referring to photographs, CAR-OTP-2069-3226 ([REDACTED]), CAR-OTP-2069-3227 ([REDACTED]); [REDACTED], referring to photograph, CAR-OTP-2069-3227 ([REDACTED]); P-0338: T-018, pp. 52-53, referring to photograph, CAR-OTP-2094-1927 (annotated version, CAR-REG-0002-0030).

[3894] P-2931: CAR-OTP-2135-4093, at 4099-4100, para. 38. P-2931 clarified that he was tied with his hands in front, together with his feet, while he was in a sitting position: addendum to P-2931's prior recorded testimony, CAR-OTP-00000802, at 000002.

[3895] P-2931: CAR-OTP-2135-4093, at 4100, para. 38.

[3896] P-2931: T-046, pp. 41-42.

[3897] P-2931: T-046, pp. 41-42.

[3898] P-2931: CAR-OTP-2135-4093, at 4100, paras 39-40. P-2931 stated that he never saw the 'basement', but was later told by a detainee that 'the basement was reserved for those condemned to death': P-2931: CAR-OTP-2135-4093, at 4099-4100, paras 36, 43.

[3899] P-2931: CAR-OTP-2135-4093, at 4100, paras 40-41. P-2931 indicated that he was placed in a cell [REDACTED] of the cellblock to the side of the OCRB compound on the sketch he drew: P-2931: CAR-OTP-2135-4093, at 4099, para. 35, referring to sketch of OCRB drawn by P-2931, CAR-OTP-2135-2258. *See also* P-3112's OCRB Report, CAR-OTP-2062-0743, at 0864-0865; photographs, CAR-OTP-2033-7068, CAR-OTP-2033-7072, CAR-OTP-2033-7078, CAR-OTP-2033-7086.

deteriorating.[3900] P-2931 stated that there were around 13 detainees inside the cell and there was no space to lie down.[3901] P-2931 sat near the container in which the detainees would urinate and defecate.[3902]

1347. P-2931 stated that all of the detainees in the cell were Christians,[3903] and that the Seleka threatened them because they were praying in the cell.[3904] P-2931 recalled that Seleka members had told the detainees in his cell to 'strike' him,[3905] and that one of the Seleka member stole his shoes and later made him wash them.[3906] P-2931 stated that during this detention, he looked after a FACA detainee, whose hands were paralysed and scarred because they had been tied up by the Seleka, and saw other detainees who had wounds due to the fact that they had been tied up.[3907] P-2931 clearly stated that he personally did not see anyone being 'tortured', 'mistreated', struck, beaten or taken away from the cell during his detention,[3908] and that he and the other detainees would sometimes be given food, but on most occasions their families would bring them food.[3909] P-2931 recalled that he heard the sound of a vehicle and of knocking on the doors of the neighbouring cells one night and other detainees explained to him that the Seleka were taking detainees

[3900] P-2931: CAR-OTP-2135-4093, at 4100, para. 41. During his preparation session, prior to his in-court evidence, P-2931 was shown a photograph, which he stated depicted the inside of the cell in which he was detained: addendum to P-2931's prior recorded testimony, CAR-OTP-00000802, at 000003, referring to photograph, [REDACTED]. P-2931 recalled that the detainees had written words in Sango using pieces of coal, which included phrases that stated that they had been imprisoned for no reason ('*on m'a emprisonné pour rien*'): addendum to P-2931's prior recorded testimony, CAR-OTP-00000802, at 000003. For the cell where the witness was detained, *see* P-3112's OCRB Report, CAR-OTP-2062-0743, at 0864-0865; photographs, CAR-OTP-2033-7064, CAR-OTP-2033-7068, CAR-OTP-2033-7072, CAR-OTP-2033-7078, CAR-OTP-2033-7086.
[3901] P-2931: CAR-OTP-2135-4093, at 4100, para. 41.
[3902] P-2931: CAR-OTP-2135-4093, at 4100, para. 41.
[3903] P-2931: CAR-OTP-2135-4093, at 4101, para. 51. P-2931 based this on the fact that they all had the same physical traits, they all spoke Sango, and he saw that one of the detainees had a New Testament: P-2931: CAR-OTP-2135-4093, at 4101, para. 51.
[3904] P-2931: CAR-OTP-2135-4093, at 4100, para. 43.
[3905] P-2931: CAR-OTP-2135-4093, at 4100, para. 43.
[3906] P-2931: CAR-OTP-2135-4093, at 4100, para. 44. P-2931 clarified that this occurred on [REDACTED] July 2013: P-2931: CAR-OTP-2135-4106, at 4109, para. 18; addendum to P-2931's prior recorded testimony, CAR-OTP-00000802, at 000003. During his preparation session, prior to his in-court evidence, P-2931 was shown photograph, CAR-OTP-2094-1939, in which he circled and marked with '3' this member of the OCRB Seleka: addendum to P-2931's prior recorded testimony, CAR-OTP-00000802, at 000004, referring to annotated photograph, CAR-OTP-00000804. During the preparation session, P-2931 was also shown photograph, CAR-OTP-2069-3224, in which he also circled and marked with a '2' this member of the OCRB Seleka: addendum to P-2931's prior recorded testimony, CAR-OTP-00000802, at 000004-000005, referring to annotated photograph, CAR-OTP-00000803.
[3907] P-2931: CAR-OTP-2135-4093, at 4101, paras 45-46. P-2931 stated the he would help this FACA detainee to eat and to use the toilet: P-2931: CAR-OTP-2135-4093, at 4101, para. 46; P-2931: T-046, p. 41; addendum to P-2931's prior recorded testimony, CAR-OTP-00000802, at 000003, in discussing photograph, CAR-OTP-2033-7068.
[3908] P-2931: CAR-OTP-2135-4093, at 4100-4101, paras 44, 47; P-2931: T-046, pp. 41-42.
[3909] P-2931: CAR-OTP-2135-4093, at 4101, para. 52; addendum to P-2931's prior recorded testimony, CAR-OTP-00000802, at 000002.

to be killed.[3910]

1348. P-2931 stated that the Seleka did not inform his family of his 'arrest and detention' at the OCRB,[3911] but that his [REDACTED] searched for him everywhere and found him there the day after his arrest.[3912]

1349. P-2931 stated that, around [REDACTED] July 2013, his [REDACTED] came to the OCRB to fetch him and took him home.[3913] P-2931 recalled that his [REDACTED] told him that [REDACTED], to secure P-2931's release.[3914] P-2931 stated that his [REDACTED], had also organised a [REDACTED] for his release.[3915] P-2931 stated that he did not know the '[REDACTED]' that they made to the Seleka.[3916] He also testified that he was not given any 'release document' by the Seleka, nor was he provided with the services of a lawyer or doctor.[3917]

1350. As regards the harm P-2931 continues to suffer as a result of his detention at the OCRB,[3918] P-2931 stated that before these events he was [REDACTED] 'very shaken' by the events he experienced, his detention and the abuse he underwent.[3919] P-2931 stated that [REDACTED] and lives in fear.[3920]

1351. As regards [REDACTED]'s treatment at the OCRB,[3921] P-2931 did not see [REDACTED] when [REDACTED] was interrogated by the Seleka leader, whom the Chamber understands to be Tahir, but heard one of the Seleka saying that he (P-2931) 'wasn't the one and that the other one had to be interrogated'.[3922] P-2931 stated that he heard the Seleka interrogate [REDACTED] but he could not understand their

[3910] P-2931: CAR-OTP-2135-4093, at 4101, para. 47. P-2931 stated that the Seleka did not take anyone away from his cell while he was there.
[3911] P-2931: CAR-OTP-2135-4093, at 4102, para. 55.
[3912] Addendum to P-2931's prior recorded testimony, CAR-OTP-00000802, at 000002.
[3913] P-2931: CAR-OTP-2135-4093, at 4102, para. 54. P-2931 clarified that the date of [REDACTED] June 2013 mentioned in paragraph 54 of his first statement should be [REDACTED] July 2013: P-2931: CAR-OTP-2135-4106, at 4109, para. 18; addendum to P-2931's prior recorded testimony, CAR-OTP-00000802, at 000003.
[3914] P-2931: CAR-OTP-2135-4093, at 4102, para. 54.
[3915] P-2931: CAR-OTP-2135-4093, at 4102, para. 54.
[3916] P-2931: CAR-OTP-2135-4093, at 4102, para. 54.
[3917] P-2931: CAR-OTP-2135-4093, at 4102, para. 55.
[3918] The Chamber notes the submissions of the CLRV in this respect: CLRV Closing Brief, ICC-01/14-01/21-1028-Red2, para. 146.
[3919] P-2931: CAR-OTP-2135-4093, at 4102, para. 58.
[3920] P-2931: CAR-OTP-2135-4093, at 4102, para. 58.
[3921] *See* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 486, Defence Closing Brief, ICC-01/14-01/21-1039-Conf, para. 486.
[3922] P-2931: CAR-OTP-2135-4093, at 4100, para. 39.

conversation.[3923] P-2931 stated that he and [REDACTED] were put in different cells,[3924] and he did not know where [REDACTED] was detained.[3925] P-2931 recalled that he saw [REDACTED] a few times in the courtyard of the OCRB, but they did not speak about the events, Oswald Sanze, or [REDACTED]'s conditions of detention.[3926] P-2931 stated that he did not see [REDACTED] at the time of his release and believed that he was still detained at that time.[3927]

i) Incident K

1352. The Chamber considered the evidence of P-1429 and Benjamin Mallo,[3928] who testified regarding P-2172's alleged arrest and detention at the OCRB,[3929] as well as documentary evidence.

1353. P-1429, who was detained at the OCRB for [REDACTED] days and released in [REDACTED] August 2013,[3930] testified that on his [REDACTED] week in detention, the Seleka arrested an individual known as [REDACTED] (P-2172).[3931] Accordingly, the Chamber considers that P-1429 would have witnessed the events described sometime around [REDACTED] August 2013.

1354. P-1429 stated that on this day, at around 18:00, a [REDACTED][3932] arrived at the OCRB

[3923] P-2931: CAR-OTP-2135-4093, at 4100, para. 39.
[3924] P-2931: CAR-OTP-2135-4093, at 4100, para. 43.
[3925] P-2931: CAR-OTP-2135-4093, at 4102, para. 53.
[3926] P-2931: CAR-OTP-2135-4093, at 4101-4102, para. 53.
[3927] P-2931: CAR-OTP-2135-4093, at 4102, para. 53; P-2931: T-046, p. 42.
[3928] The Chamber notes the Prosecution's submission that a third witness (P-2386) likewise gives evidence in relation to P-2172's alleged arrest and detention at the OCRB. However, the evidence cited by the Prosecution in support of this claim only makes reference to P-2172's involvement in the April 2013 events and bears no relevance to his arrest and detention in August 2013. The Chamber will therefore not consider the evidence of P-2386 for the purposes of making a determination on these charges. *See* Prosecution Clarification in respect of Incidents D and K, ICC-01/14-01/21-1035-Red2, paras 9, 11.
[3929] The Chamber notes that the spelling of P-2172's surname varies across different items of evidence on the record. In particular, in his prior recorded testimony, P-1429 refers to P-2172 as '[REDACTED]': P-1429: CAR-OTP-2049-0166, at 0176, para. 68. Benjamin Mallo refers to P-2172 as '[REDACTED]': P-0338: T-018, p. 51. The Chamber is satisfied that, despite these differences, the references to [REDACTED] pertain to P-2172.
[3930] P-1429: CAR-OTP-2049-0166, at 0170, 0172, 0173,-0174, 0177, paras 20, 32-34, 39, 43, 47-48, 71. The Chamber notes that P-1429 testified that the Seleka arrested him in [REDACTED] July 2013, and ultimately transferred him to the OCRB a few days later. The Chamber observes its previous finding that P-1429 was initially arrested in [REDACTED] July 2013, and was provisionally released from OCRB custody in mid-August 2013, after approximately [REDACTED] days in detention. The Chamber therefore considers that P-1429's [REDACTED] week in detention would have been just prior to P-1429's release, or, in other words, sometime in [REDACTED] August 2013. *See* above paras 973, 976.
[3931] P-1429: CAR-OTP-2049-0166, at 0176, para. 68.
[3932] The Chamber understands this to be a reference to the [REDACTED]: P-0100: CAR-OTP-2027-2535, at 2545, para. 61; P-0884: CAR-OTP-2080-1603, at 1637; Final Report of the UN Panel of Experts, CAR-OTP-2099-1108, at 1142.

with '[REDACTED]' and spoke to the shift supervisor to demand P-2172's release.[3933] P-1429 stated that 'the shift supervisor said that he would need permission to release [REDACTED]' and a call was made to [REDACTED] who 'came straight away', after which P-2172 was immediately released.[3934] The Chamber notes that P-1429's testimony does not contain further details about the circumstances surrounding P-2172's detention at the OCRB.

1355. Another witness, Benjamin Mallo, who was a gendarme stationed at the OCRB at the relevant time,[3935] testified that he arrived at the OCRB at 'about 6.30, 7 o'clock in the evening', after being summoned to respond to a serious situation.[3936] Benjamin Mallo recalled that, upon arriving at the OCRB, he saw that [REDACTED] was sitting inside his car, which was parked outside the OCRB, and that he asked [REDACTED] to follow him.[3937] Benjamin Mallo stated that he took [REDACTED] to his office, 'called Colonel Said to know what was going on' and asked where P-2172 was.[3938] Benjamin Mallo stated that he said that he needed P-2172 to be taken out 'because [REDACTED] needs him' and he is a '[REDACTED]'.[3939] Benjamin Mallo testified that P-2172 was brought to him and he [Benjamin Mallo] took him to the [REDACTED], after which Nouradine Adam appeared with 'one of his henchmen' and asked '[w]here is that [REDACTED]?'.[3940] Benjamin Mallo recalled that Nouradine Adam said, '[h]e should come with me, come with me. I'll take him to Michel', which Benjamin Mallo understood as referring to 'President Djotodia'.[3941] Benjamin Mallo testified that Nouradine Adam's 'henchman took [P-2172] by the hand, and they left the OCRB' and went to a hotel (followed by Benjamin Mallo and [REDACTED]).[3942] Benjamin Mallo,

[3933] P-1429: CAR-OTP-2049-0166, at 0176, para. 68.
[3934] P-1429: CAR-OTP-2049-0166, at 0176, para. 68.
[3935] *See* above para. 929.
[3936] [REDACTED]. The Chamber observes that Benjamin Mallo did not provide a date for the incident. Nonetheless, the Chamber considers there to be sufficient consistency between Benjamin Mallo's account and that of P-1429 (*i.e.*, the time of day, the individuals involved and present and the events taking place), to determine that it was the same occasion relating to P-2172 being at the OCRB.
[3937] [REDACTED]. The Chamber notes that Benjamin Mallo did not refer to the '[REDACTED]' by name. The Chamber recalls that P-1429 referred to an individual named '[REDACTED]': P-1429: CAR-OTP-2049-0166, at 0176, para. 68. The Chamber notes that the evidence on the record demonstrates that the [REDACTED] in or around the middle of 2013 was an individual by the name of [REDACTED] (*see* P-0100: CAR-OTP-2027-2535 at 2545, para. 61; P-1289: CAR-OTP-2053-0359, at 0376, para. 98), and that, at times, the [REDACTED] was also referred to as '[REDACTED]' (*see* P-1808: T-085, p. 33).
[3938] [REDACTED].
[3939] [REDACTED].
[3940] [REDACTED].
[3941] [REDACTED].
[3942] [REDACTED].

when shown his prior recorded testimony where he described the arrest and detention at the OCRB of [REDACTED] by the Seleka, clarified in court that P-2172 was not a prisoner at the OCRB.[3943] The witness did not provide further details regarding the circumstances of P-2172's presence at the OCRB.

1356. Additionally, the Prosecution pointed to a news article dated [REDACTED] featuring an interview given by P-2172 in August 2013, in which P-2172 reportedly stated that he was arrested on the allegation that he was endangering the security of the State ('*atteinte à la sureté de l'État*'), because he [REDACTED] that the regime of Michel Djotodia would fall.[3944] The Chamber cannot make a factual conclusion in respect of P-2172's detention at the OCRB based on this article alone.

1357. The Prosecution further referred to [REDACTED],[3945] an untitled and unsigned memorandum attached to an email from Patrice-Edouard Ngaïssona dated 17 September 2013,[3946] an NGO report,[3947] and presidential and executive orders appointing members of the CNT,[3948] all of which mention P-2172's name but do not shed any light on the circumstances of P-2172's presence at the OCRB.

1358. As to the reason that P-2172 was apprehended by the Seleka, the Chamber notes Benjamin Mallo's testimony that he believed that P-2172 was taken because of the political position P-2172 took, explaining that P-2172, '[REDACTED]'.[3949] The Chamber also observes that P-1429 testified that the '[REDACTED]'.[3950]

1359. On the basis of the foregoing, the Chamber is satisfied that P-2172 was brought to the OCRB and subsequently released upon the intervention of [REDACTED]. However, the Chamber considers that there was insufficient evidence about the circumstances

[3943] [REDACTED].
[3944] [REDACTED]; Prosecution Pre-Confirmation Brief, ICC-01/14-01/21-155-Red3, n. 385; Prosecution Trial Brief, ICC-01/14-01/21-359-Red, n. 647.
[3945] Dossier, CAR-OTP-2131-0408, at 0730; Prosecution Clarification in respect of Incidents D and K, ICC-01/14-01/21-1035-Red2, n. 7.
[3946] Memorandum, CAR-OTP-2124-0806, at 0809; Prosecution Clarification in respect of Incidents D and K, ICC-01/14-01/21-1035-Red2, n. 8, 11. *See also* email, CAR-OTP-2124-0805.
[3947] Report, CAR-OTP-2100-1131, at 1153, 1185; Prosecution Clarification in respect of Incidents D and K, ICC-01/14-01/21-1035-Red2, n. 8, 11.
[3948] Presidential and executive orders, CAR-OTP-2100-1842, at 1846; CAR-OTP-2100-1832, at 1835; CAR-OTP-2004-0890, at 0951; CAR-OTP-2005-0384, at 0388; Prosecution Clarification in respect of Incidents D and K, ICC-01/14-01/21-1035-Red2, n. 7-8, 11.
[3949] [REDACTED].
[3950] P-1429: CAR-OTP-2049-0166, at 0176, para. 68.

surrounding P-2172's presence at the OCRB, the duration thereof, and his treatment at the hands of the OCRB Seleka to allow it to enter factual findings relevant to the charged crimes.

j) Incident L

1360. In respect of Incident L, the Chamber considered P-2519's evidence, as the sole victim of and witness to the events, together with documentary evidence received concerning his arrest.

1361. P-2519 testified that his family home was in [REDACTED],[3951] he was a Christian of [REDACTED] ethnicity,[3952] [REDACTED].[3953]

1362. As regards his status at the time of his arrest, P-2519 stated that when the Seleka arrived in [REDACTED], [REDACTED] there were no clashes between the FACA and the Seleka.[3954] P-2519 recalled that he decided to return to Bangui[3955] and returned to stay with his family in Bangui about three months after the Seleka took over, arriving there via public transport [REDACTED].[3956]

1363. According to P-2519, about two weeks after he returned to Bangui, he heard a radio announcement [REDACTED].[3957] P-2519 testified that the following morning he [REDACTED] was waiting at a bus stop[3958] at about 07:00 in the morning when a Seleka member named '[REDACTED]' (who was known to the witness),[3959] accompanied by armed Seleka members, approached him.[3960] P-2519 recalled being in civilian clothes at the time.[3961] P-2519 stated that [REDACTED] asked where he was going, told him to get

[3951] P-2519: CAR-OTP-2127-9471, at 9473, 9475, paras 14, 24.
[3952] P-2519: CAR-OTP-2127-9471, at 9473, paras 12-13; P-2519: T-053, p. 9.
[3953] P-2519: CAR-OTP-2127-9471, at 9473, paras 12, 14; P-2519: T-053, pp. 8-9.
[3954] P-2519: CAR-OTP-2127-9471, at 9473, para. 15. The Chamber notes that although there were no clashes between the FACA and the Seleka in [REDACTED], P-2159 recalled there being a lot of tension, [REDACTED] because the Seleka were committing atrocities.
[3955] P-2519: CAR-OTP-2127-9471, at 9473-9474, paras 15-16.
[3956] P-2519: CAR-OTP-2127-9471, at 9474-9475, paras 16, 24. The Chamber notes that P-2519 stated that he was in the company of FACA members from Bangui during this journey and that they took public transport and were stopped by the Seleka on the way, but the Seleka were mostly asking for money.
[3957] P-2519: CAR-OTP-2127-9471, at 9475, para. 25.
[3958] P-2519: CAR-OTP-2127-9471, at 9475, paras 26-27. *See also* addendum to P-2619's prior recorded testimony, CAR-OTP-00025636, at 00002.
[3959] P-2519: T-053, pp. 27-29; P-2519: CAR-OTP-2127-9471, at 9474-9476, paras 17, 21-22, 34. P-2519 stated that, prior to the Seleka takeover of Bangui, [REDACTED]. [REDACTED] became a colonel within the Seleka and had asked the witness to work for him [REDACTED], which the witness refused to do.
[3960] P-2519: CAR-OTP-2127-9471, at 9475-9476, paras 27, 34.
[3961] P-2519: CAR-OTP-2127-9471, at 9475, paras 26-27.

in his vehicle and he would take him there, and then brought him to the OCRB on this false pretext.[3962]

1364. P-2519 recalled that this occurred about three months and two weeks after the Seleka entered Bangui in March 2013,[3963] which would place it sometime in the first two weeks of July 2013.[3964] However, P-2519 also stated that he was detained at the OCRB for two weeks and was there during Michel Djotodia's investiture, which took place on 18 August 2013, which would place his arrest in the first half of August 2013.[3965] Further, P-2519 noted that while he was still in detention [REDACTED], a prosecutor was killed in Combattant, an event which the Defence argues took place in October 2013.[3966] The Chamber also notes that an entry dated [REDACTED] August 2013 in the register of the *Tribunal de Grande Instance* of Bangui records the arrest of P-2519 as having taken place on [REDACTED] August 2013.[3967] Having regard to this contemporaneous record of his arrest and granting appropriate latitude to the witness's recollection, given the passage of time since the events, the Chamber is satisfied that his arrest took place on or around [REDACTED] August 2013.[3968]

[3962] P-2519: CAR-OTP-2127-9471, at 9475-9476, paras 28, 31-32. *See also* addendum to P-2519's prior recorded testimony, CAR-OTP-00025636, at 00002.
[3963] P-2519: CAR-OTP-2127-9471, at 9474, 9476, paras 16, 35. The Chamber notes the description provided by P-2519 concerning the identity of the person, who along with four other armed Seleka members, apprehended the witness: P-2519: T-053, pp. 27-29; P-2519: CAR-OTP-2127-9471, at 9474, 9476, paras 17, 29-30. P-2519 stated that this person and his Seleka were all dressed in desert military uniforms, armed with 'Kalas' and grenades at the time; this person also had a pistol and a 'Kala' in their vehicle: P-2519: CAR-OTP-2127-9471, at 9475, para. 27. *See also* addendum to P-2519's prior recorded testimony, CAR-OTP-00025636, at 00002. The Chamber notes that it has not received any evidence, apart from that of P-2519 concerning '[REDACTED]' and his affiliation with the Seleka and has no other indication as to whether this person indeed held an official title and/or rank within the Seleka. However, given P-2519's evidence discussed herein, the Chamber considers that there is no doubt that the person apprehending P-2519 was a Seleka member.
[3964] P-2519: CAR-OTP-2127-9471, at 9475, paras 25-28. The Prosecution refers to radio communiqué, CAR-OTP-2070-0181, dated May 2013, as a reference point: Prosecution Trial Brief, ICC-01/14-01/21-359-Red, para. 201. However, the Chamber notes that there appear to have been more than one such radio announcement. Accordingly, the Prosecution's suggestion that the announcement in May 2013 could serve as a reference point for P-2519's arrest does not assist the Chamber. For further discussion of the timeline of these radio announcements, *see* above paras 436-437. The Chamber notes that the date of the radio announcement from [REDACTED] is not specified in the witness's account.
[3965] P-2519: CAR-OTP-2127-9471, at 9476, para. 35. For the date of Michel Djotodia's investiture, *see* para. 650 above.
[3966] Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 494 referring to news articles, CAR-D33-0014-1983, CAR-D33-0014-1985.
[3967] Prosecutor's register, CAR-OTP-2008-2415, at 2505, [REDACTED]. *See also* Prosecution Trial Brief, ICC-01/14-01/21-359-Red, para. 206, referring to records of court hearings, CAR-OTP-2136-0699, at 0843.
[3968] The Chamber has considered the Defence's arguments that P-2519's evidence concerning, *inter alia*, the date of his arrest and the duration of his detention, is imprecise. In particular, the Defence argued that it is impossible, on the basis of P-2519's testimony, to know exactly when the witness would have been detained and that it was all the more important to carry out this exercise in this case as some of P-2519's statements seem to suggest that

1365. P-2519 stated that, upon arrival at the OCRB, '[REDACTED]' spoke to 'Colonel' [REDACTED],[3969] following which P-2519 was brought to a Seleka 'Captain', who was seated at a desk outside, in front of a cell opposite the main building.[3970] P-2519 stated that the captain questioned him in Sango, asking what he had on him,[3971] following which P-2519 gave the captain his ID card and his mobile phone and the Seleka members took the money he had on him.[3972] The witness testified that the Seleka never returned the mobile phone, the ID, or the money they took from P-2519.[3973]

1366. P-2519 recalled that, after looking at his ID card, the Seleka captain asked if P-2519 was [REDACTED].[3974] P-2519 stated that he understood that 'this was a life or death situation', as he had heard in Bangui and [REDACTED] that 'when the Seleka arrest someone, they kill him'.[3975] P-2519 testified that once he confirmed that he (P-2519) was [REDACTED], the captain responded '[t]hen, you are the type of people that we are looking for' and put his details, including his name, address, and profession, into a register.[3976]

1367. P-2519 stated that the Seleka members, including those from the OCRB,[3977] then took off P-2519's clothes and shoes, and left him bare-chested, in his shorts,[3978] and started hitting P-2519 with the butts of their rifles, pushing him towards a place where there was

his detention in October 2013 would have been outside the period of the charges. *See* Defence Closing Brief, ICC-01/14-01/21-1039-Red, paras 494-495. The Chamber has also considered that the dates 17 October and 23 October 2013 appear in the records concerning the court proceedings against P-2519 [REDACTED], respectively. The Chamber recalls that the judgment against P-2519 does not mention the date of his arrest; and that the register recording his arrest mentions that it took place on [REDACTED] August 2013. *See* records of court hearings, CAR-OTP-2136-0699, at 0842-0843; victim application form, CAR-OTP-00025568, at 00013. The Chamber is satisfied, based on P-2519's evidence and the record of his arrest, that no part of his detention at the OCRB took place in the period outside of the charges. The Chamber is unable to draw any conclusion as to the death of a prosecutor in Combattant only based on the news articles pointed out by the Defence, especially noting that they were not put to the witness. In any event, the Chamber considers that these news articles do not throw into question P-2519's evidence concerning his arrest and the circumstances of his detention at the OCRB.

[3969] P-2519: CAR-OTP-2127-9471, at 9477, para. 36.

[3970] P-2519: CAR-OTP-2127-9471, at 9477, paras 38-40.

[3971] P-2519: CAR-OTP-2127-9471, at 9477, paras 38, 41.

[3972] P-2519: CAR-OTP-2127-9471, at 9477, para. 41.

[3973] P-2519: CAR-OTP-2127-9471, at 9478, para. 44. *See* investigation report, CAR-OTP-00000532.

[3974] P-2519: CAR-OTP-2127-9471, at 9477, para. 41.

[3975] P-2519: CAR-OTP-2127-9471, at 9477, para. 41.

[3976] P-2519: CAR-OTP-2127-9471, at 9477, paras 41-42.

[3977] The Chamber notes that the Seleka members mistreating P-2519 included members of the OCRB Seleka as well as the members of Seleka commanded by the person who had brought the witness to the OCRB. He also recalled that the Seleka members beating him wore desert and green camouflage military uniforms. *See* P-2519: CAR-OTP-2127-9471, at 9478, para. 50.

[3978] P-2519: CAR-OTP-2127-9471, at 9478, para. 45. *See also* addendum to P-2519's prior recorded testimony, CAR-OTP-00025636, at 00002.

a water tap, in the corner of a building 'where they kept cells'.[3979] P-2519 fell down and the Seleka members tied him up in the *arbatachar* way, poured water on him and kept beating him.[3980] P-2519 described the *arbatachar* way as 'binding my arms behind my back, and then using the same rope to tie my feet to my arms'.[3981] P-2519 stated that multiple Seleka members were whipping him and beating him everywhere on his body, including the head and the back; while they were beating him, the Seleka members filled up a bucket from the water tap and poured water all over his body about five times.[3982]

1368. P-2519 recalled that, in addition to '[REDACTED]', the Seleka captain and Colonel [REDACTED] were present when the Seleka members were beating him; a Seleka General called '[REDACTED]', [REDACTED], also arrived during the beating.[3983] P-2519 stated that these people could see and were looking at him while he was being beaten and that nobody intervened to stop the beatings.[3984]

1369. P-2519 gave evidence that, while the Seleka members were beating him, they said that P-2519 was an '*askar*', which the witness believed to mean 'a soldier'.[3985]

[3979] P-2519: CAR-OTP-2127-9471, at 9478, para. 46. *See also* addendum to P-2519's prior recorded testimony, CAR-OTP-00025636, at 00002. The Chamber notes that, during witness preparation, commenting on photograph CAR-OTP-2033-7064, P-2519 recognised 'the building in which [he] was beaten' and that he 'was kept in the room [REDACTED]'. Reading this together with his statement, according to which, he was beaten in a 'place where there was a water tap, in the corner of the building where they kept cells', the Chamber considers there to be no inconsistency in his account concerning the location of these beatings. *See* addendum to P-2519's prior recorded testimony, CAR-OTP-00025636, at 00003.
[3980] P-2519: CAR-OTP-2127-9471, at 9478, para. 46.
[3981] P-2519: CAR-OTP-2127-9471, at 9478, para. 48.
[3982] P-2519: CAR-OTP-2127-9471, at 9478, para. 49. *See also* addendum to P-2519's prior recorded testimony, CAR-OTP-00025636, at 00002.
[3983] P-2519: CAR-OTP-2127-9471, at 9479, para. 52. P-2519 was shown photograph, CAR-OTP-2069-3227 during his witness preparation and recognised '[REDACTED]' as the one wearing a desert military unform and about to shake hands with Michel Djotodia. Other witnesses have identified this individual as Tahir from the OCRB when shown the same photograph. *See* [REDACTED]; [REDACTED]. The Defence argues that P-2519 mentions names of individuals like [REDACTED], who do not appear elsewhere on the case record and that it has not been established that these individuals were linked to the OCRB: Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 497. The Chamber considers that P-2519 was clear, credible, and unambiguous that his mistreatment took place at the OCRB. Irrespective of the role played by '[REDACTED]', the Seleka captain, 'Colonel [REDACTED]', the Seleka General called '[REDACTED]' and the [REDACTED] Seleka Colonel in his mistreatment and detention, the Chamber is satisfied that it occurred at the OCRB with the involvement and oversight of the OCRB Seleka.
[3984] P-2519: CAR-OTP-2127-9471, at 9479, para. 52.
[3985] The Chamber notes that P-2519 deduced that it meant soldier because Seleka members would use this word when they saw any military person. P-2519 stated he had heard this word before; during his detention at the OCRB, he heard Seleka members using this word when they were dealing with a soldier. [REDACTED]. *See* P-2519: CAR-OTP-2127-9471, at 9478-9479, 9480, paras 51, 60. The Chamber also has regard to the use of this term in other contexts suggesting a reference to the military. *See* P-0547: T-012, p. 37; P-0547: T-013, p. 38; P-1967: CAR-OTP-2069-0498, at 0514, para. 74.

1370. P-2519 could not recall exactly how long the beating lasted, because he passed out.[3986] P-2519 stated that he was on the veranda when he regained consciousness and the Seleka members who brought him to the OCRB and 'all the officers' were gone.[3987] He recalled noticing, immediately after he regained consciousness, that, while he did not have cuts on his body, the parts of his body where he had been hit were swollen.[3988] P-2519 recalled that, at some point, the Seleka captain said that he (P-2519) should be taken to a cell and the Seleka untied him and he crawled slowly towards the cell as he could not really walk.[3989] P-2519 stated that the cell was not far, so it took him about a minute to get there.[3990]

1371. P-2519 testified that he was detained in two different cells at the OCRB[3991] over a period of two weeks.[3992] P-2519 described the first cell he was placed in as having a cement ceiling and floor, and being very dark and windowless, with a door made of metal; the cell was not large and when P-2519 arrived in the cell, it already housed 17 detainees.[3993] P-2519 stated that the detainees were sitting but with open legs so that they could sit between one another's legs because there was not enough space.[3994] P-2519 recalled that, among the 17 prisoners, there were three FACA members, two civilians, and the rest were all Seleka members.[3995]

[3986] P-2519: CAR-OTP-2127-9471, at 9479, para. 55.
[3987] P-2519: CAR-OTP-2127-9471, at 9479, paras 55, 57.
[3988] P-2519: CAR-OTP-2127-9471, at 9479, para. 56.
[3989] P-2519: CAR-OTP-2127-9471, at 9479, paras 57-58.
[3990] P-2519: CAR-OTP-2127-9471, at 9479, para. 58.
[3991] P-2519 identified two locations in which he was kept in photographs, CAR-OTP-2033-6871 and CAR-OTP-2033-7064. In the first photograph, P-2519 recognised the back of the OCRB courtyard [REDACTED] being the cell in which P-2519 was detained. In the second photograph, P-2519 recognised the building where he was beaten and kept in the room [REDACTED]. *See* addendum to P-2519's prior recorded testimony, CAR-OTP-00025636, at 00003. *See also* P-2519: CAR-OTP-2127-9471, at 9481, para. 70. The Chamber notes that P-2519 stated that he was in the room in [REDACTED] the cellblock to the side of the OCRB compound shown in photograph, CAR-OTP-2033-7064 and [REDACTED], he was moved to the cell [REDACTED] of the cellblock to the rear of the OCRB compound depicted in photograph, CAR-OTP-2033-6871. P-3112 provided audio-visual material showing the interior of these cells. For the cell where P-2519 was detained initially, *see* P-3112's OCRB Report, CAR-OTP-2062-0743, at 0866-0867; photographs, CAR-OTP-2033-7098, CAR-OTP-2033-7105, CAR-OTP-2033-7112, CAR-OTP-2033-7119. For the cell in which he was detained subsequently, *see* P-3112's OCRB Report, CAR-OTP-2062-0743, at 0859-0860; corrections to P-3112's OCRB Report, CAR-OTP-00037598, at 0006-0007; video, CAR-OTP-2033-7870; photographs, CAR-OTP-2033-6872, CAR-OTP-2033-6874, CAR-OTP-2033-6880, CAR-OTP-2033-6883, CAR-OTP-2033-6893. Both cells correspond to the description provided by P-2519 regarding the small size and the location on the ground floor.
[3992] P-2519: CAR-OTP-2127-9471, at 9484, para. 86.
[3993] P-2519: CAR-OTP-2127-9471, at 9479, para. 59.
[3994] P-2519: CAR-OTP-2127-9471, at 9479, para. 59.
[3995] P-2519: CAR-OTP-2127-9471, at 9479-9480, paras 59-60. P-2519 recalled that one FACA prisoner was a first-class soldier and another was a corporal and he did not know in which unit in the FACA they served and from where they were arrested.

1372. According to P-2519, a '[REDACTED] Seleka Colonel' would come almost every night around 21:00-22:00 and beat all the prisoners with a rope, a process that would last from five to 10 minutes for all prisoners.[3996] P-2519 testified that some of the Seleka prisoners from his cell were taken out on the first and third night of his detention and did not return, and he heard from other prisoners that prisoners were taken from other cells too.[3997] P-2519 did not know why the prisoners were taken or where they were taken.[3998]

1373. P-2519 testified that he never received any medical care while detained at the OCRB.[3999] P-2519 recalled that the detainees could leave the cell three times daily for half an hour, during which time they could fetch water from the tap in the courtyard, wash themselves if there was water in the tap, and go to the toilet (otherwise, they had to use a bucket in the cell).[4000] P-2519 stated that the Seleka members would give them food, but it was not well-cooked, so he ate the food that his family brought him.[4001] P-2519 recalled being able to meet certain family members while in detention at the OCRB almost on a daily basis, from the second day of his detention.[4002]

1374. P-2519 stated that, during his detention at the OCRB, he was not interrogated or informed of his rights and met a lawyer only later, when he was taken to court.[4003] He testified that he was not informed of the reason for his arrest,[4004] and was not even informed that he was being detained when he was initially approached by the Seleka members at the bus stop.[4005] P-2519 recalled being able to inform his family of his whereabouts through a family member of a fellow prisoner.[4006]

1375. P-2519 stated that, after two weeks,[4007] the Seleka transferred him and other prisoners from different cells in the OCRB to [REDACTED], where he was asked to sign a document before being taken to [REDACTED], where he remained for a further two

[3996] P-2519: CAR-OTP-2127-9471, at 9480, paras 61-65.
[3997] P-2519: CAR-OTP-2127-9471, at 9480-9482, paras 66, 70-71, 73. The Chamber notes that after P-2519's release, he was informed by the brother of one of the Seleka prisoners that the prisoner had been killed the night he was taken out of the cell and that his body was found.
[3998] P-2519: CAR-OTP-2127-9471, at 9481, para. 70.
[3999] P-2519: CAR-OTP-2127-9471, at 9483, para. 84.
[4000] P-2519: CAR-OTP-2127-9471, at 9481, 9483, paras 69, 83.
[4001] P-2519: CAR-OTP-2127-9471, at 9483, para. 83.
[4002] P-2519: CAR-OTP-2127-9471, at 9482, paras 78-79.
[4003] P-2519: CAR-OTP-2127-9471, at 9482, para. 76.
[4004] *See* P-2519: CAR-OTP-2127-9471, at 9477, para. 42.
[4005] *See* P-2519: CAR-OTP-2127-9471, at 9475-9476, paras 28, 32.
[4006] P-2519: CAR-OTP-2127-9471, at 9482, para. 77.
[4007] P-2519: CAR-OTP-2127-9471, at 9484, para. 86.

weeks.[4008] According to P-2519, one week after being released from [REDACTED], the prosecutor summoned him again to the court and P-2519 explained what happened to him.[4009] P-2519 stated that he was 'never told the charges', was only asked why he joined the Seleka and that he did not have a lawyer during this hearing.[4010] According to P-2519, since 'there was no complaint' against him, 'there was no follow-up to this'.[4011] P-2519 recalled being 'told to come back on Wednesday' and that since 'there was no one complaining' about him, 'the second trial never really took place'.[4012] P-2519 stated that, in the end, his family members attended the final hearing and collected a document and he himself did not attend.[4013] P-2519 claimed that he had to pay a fine to the public treasury for associating 'with the Seleka' and was not sentenced to any prison time.[4014]

1376. According to P-2519, he was released because of the efforts of a family member, who had visited the OCRB multiple times and managed to secure his release through the involvement of the police and the prosecutor.[4015] In particular, P-2519 recalled that on the morning that he was taken from the OCRB, he had seen this family member inside the OCRB compound.[4016] P-2519 stated that, at [REDACTED], he spoke to this family member who told P-2519 about a meeting with the police chief about the release and that the police chief had said that P-2519's release would be discussed with [REDACTED].[4017] P-2519 believed that he was released on medical grounds, due to the intervention of this family member.[4018] P-2519 recalled that the family member did not know how to arrange his release sooner, noting that two days after the transfer to [REDACTED], a prosecutor was killed in Combattant so the Court staff went on strike.[4019]

1377. There is documentary evidence of legal proceedings instituted against P-2519 following

[4008] P-2519: CAR-OTP-2127-9471, at 9484, paras 87, 89-92. P-2519 also described the conditions of detention at [REDACTED] and stated that during his stay there, he did not have a lawyer.
[4009] P-2519: CAR-OTP-2127-9471, at 9485, para. 95.
[4010] P-2519: CAR-OTP-2127-9471, at 9485, para. 95.
[4011] P-2519: CAR-OTP-2127-9471, at 9485, para. 95.
[4012] P-2519: CAR-OTP-2127-9471, at 9485, para. 95.
[4013] P-2519: CAR-OTP-2127-9471, at 9485, para. 96.
[4014] P-2519: CAR-OTP-2127-9471, at 9485, para. 96. *See also* addendum to P-2519's prior recorded testimony, CAR-OTP-00025636, at 00002, where P-2519 confirmed that he was never sentenced [REDACTED] term of imprisonment and was only given documents confirming that he was sick and then released.
[4015] P-2519: CAR-OTP-2127-9471, at 9482-9484, paras 79, 86, 88.
[4016] P-2519: CAR-OTP-2127-9471, at 9483-9484, paras 86, 88.
[4017] P-2519: CAR-OTP-2127-9471, at 9484, para. 90.
[4018] P-2519: CAR-OTP-2127-9471, at 9484-9485, para. 93.
[4019] P-2519: CAR-OTP-2127-9471, at 9484, para. 91.

his arrest in August 2013, specifically: (i) a register entry dated [REDACTED] August 2013 containing a record of his arrest on [REDACTED] August 2013, stating that he was arrested for stealing, sabotage and destruction of property;[4020] (ii) a handwritten record dated [REDACTED] October 2013 from the register of the *Tribunal de Grande Instance de Bangui* stating that court proceedings were held against P-2519 on charges of [REDACTED], and that he was found guilty of [REDACTED] and sentenced to [REDACTED] imprisonment and a fine, and acquitted of the remaining charges;[4021] and (iii) a signed and stamped copy of an electronic extract of a judgment ('*extrait du repertoire*') from the *Tribunal de Grande Instance*, created on [REDACTED], containing text similar to the handwritten text mentioned above.[4022] The extract of this judgment states that a court hearing was held on [REDACTED] October 2013, deliberations were held on [REDACTED] October 2013 (a Wednesday), submissions from the prosecution and the defence were considered and that the verdict was a conviction for [REDACTED] and an acquittal for the charges of [REDACTED].[4023]

1378. The Chamber notes that these documents show that the first record of P-2519's arrest was entered [REDACTED] days after his arrest and that the prosecutor charged P-2519 with [REDACTED]. There is no evidence on the record of any warrant of arrest issued against P-2519 and there are no details available in the evidence adduced regarding these charges, particularly in terms of what he is alleged [REDACTED].

1379. The Chamber observes that when P-2519 was shown the register of the *Tribunal de Grande Instance* of Bangui containing the record of him being arrested [REDACTED], he responded that this was not true and that 'he had not done anything'.[4024] P-2519 also gave evidence that he did not attend the court hearing during which the judgment against

[4020] P-2519: CAR-OTP-2127-9471, at 9485-9486, para. 100, referring to entry 623 of the prosecutor's register, CAR-OTP-2008-2415, at 2505.
[4021] Records of court hearings, CAR-OTP-2136-0699, at 0842-0843.
[4022] Victim application form, CAR-OTP-00025568, at 00013. This extract also states that hearings were held on [REDACTED] October 2013 and the matter was deliberated on [REDACTED] October 2013. [REDACTED]. P-2519 was shown the document titled '*extrait du repertoire*' during his witness preparation session and he stated that he did not provide these documents to the Victims' representatives and had 'never seen this document before'. *See* addendum to P-2519's prior recorded testimony, CAR-OTP-00025636, at 00003, referring to victim application form, CAR-OTP-00025568, at 00012-00013.
[4023] Victim application form, CAR-OTP-00025568, at 00012-00013.
[4024] P-2519: CAR-OTP-2127-9471, at 9485-9486, para. 100, referring to entry 623 of the prosecutor's register, CAR-OTP-2008-2415, at 2505.

him was issued and that he only paid a fine and did not serve a sentence.[4025]

1380. In considering this evidence, the Chamber is guided by evidence regarding the wider context. The Chamber notes, in particular, Benjamin Mallo's testimony that, during the Seleka period, the judicial institutions were largely ornamental, and that, although there were certain leaders who were in their offices, they were not working and there was no justice.[4026] The Chamber also notes evidence that in certain cases, the prosecutor together with police officials fabricated charges in order to move prisoners to [REDACTED] so that they could be released later,[4027] and that the police were otherwise involved in trying to secure the release of Seleka prisoners.[4028]

1381. Having regard to the witness's testimony regarding these court proceedings and the intervention of his family member in securing his release, the Chamber considers P-2519's account to be credible and accords low probative value to the substance of the charges contained in the records of the *Tribunal de Grande Instance*.[4029]

1382. The Chamber now turns to the impact of P-2519's arrest, mistreatment, and detention at the OCRB on his health.[4030] As regards physical harm, P-2519 stated that he continues to feel the pain resulting from being tied using the *arbatachar* method, his arm was initially paralysed, his hands are not as strong as they used to be and sometimes both his hands feel like they are paralysed and tremble.[4031] P-2519 stated that he still has pain in his chest and sometimes he spits blood.[4032] As regards psychological harm, P-2519 agreed

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[4025] P-2519: CAR-OTP-2127-9471, at 9485, paras 95-96. *See also* addendum to P-2519's prior recorded testimony, CAR-OTP-00025636, at 00002 where P-2519 confirmed that he was never sentenced to [REDACTED] term of imprisonment and was only given documents confirming that he was sick and then was released. Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 496, referring to victim application form, CAR-OTP-00025568, at 00010 noting that it states that P-2519 was indeed sentenced to a "suspended prison sentence" ('*j'ai été condamné pour vol à une peine de prison avec sursis et à payer une amende* [REDACTED]', with reference to the judgment). In this respect, the Chamber notes that it has limited information as to the circumstances in which P-2519's victim application was prepared and what information P-2519 himself provided and accepted. In light of what P-2519 stated in his prior recorded testimony and in the addendum to his prior recorded testimony, the Chamber accepts P-2519's evidence that he did not serve his [REDACTED] prison sentence.
[4026] P-0338: T-018, p. 58. *See also* P-2328: T-128, p. 17
[4027] P-0787: CAR-OTP-2036-0410, at 0428, para. 87.
[4028] [REDACTED].
[4029] Records of court hearings, CAR-OTP-2136-0699, at 0842-0843; victim application form, CAR-OTP-00025568, at 00012-00013.
[4030] The Chamber notes the submissions of the CLRV regarding the harm suffered by P-2519: CLRV Closing Brief, ICC-01/14-01/21-1028-Red2, paras 138, 146.
[4031] P-2519: CAR-OTP-2127-9471, at 9478, para. 47; P-2519: T-053, p. 44. *See also* addendum to P-2519's prior recorded testimony, CAR-OTP-00025636, at 00002, where P-2519 added that because of the beating and how his hands were tied, his 'hands shake from time to time'.
[4032] P-2519: CAR-OTP-2127-9471, at 9483, para. 84.

that he cannot forget the events of 2013[4033] and thinks of himself 'as still living in a kind of prison'.[4034] P-2519 said that his suffering could have led to his death; his family members thought that he was going to die and that he still suffers from the trauma that he experienced.[4035] As regards material harm, P-2519 said that he was not able to resume full-time work and that caused various problems; after the events, he 'had to fight left and right to provide for [his] family'; he continued working, but could not meet all their needs and they are still having difficulties.[4036] At the same time, the Chamber notes the witness's testimony that he resumed [REDACTED] later in 2013 or in 2014 [REDACTED].[4037]

k) Incident M

1383. In respect of Incident M, the Chamber considered the evidence provided by three witnesses, namely P-3064, P-3056, P-3053, who are the victims of this incident, together with the accounts of other witnesses who were present at the OCRB at the relevant time, namely P-0547 and P-2400.

1384. At the outset, the Chamber notes that P-3053 stated that he is a Christian of [REDACTED] ethnicity, who worked as [REDACTED] prior to the Seleka takeover of Bangui;[4038] P-3056 stated that he is a Christian of [REDACTED] ethnicity and he was unemployed at the time of the events;[4039] and P-3064 stated he is a [REDACTED] ethnicity and was unemployed at the time of the events.[4040]

i. Circumstances leading to the detention of P-3053, P-3056, P-3064 and another man

1385. P-3064, P-3056 and P-3053 testified that while they were at a funeral of a family member

[4033] P-2519: T-053, p. 15.
[4034] P-2519: T-053, p. 17.
[4035] P-2519: T-053, p. 16.
[4036] P-2519: T-053, pp. 17-18.
[4037] P-2519: T-053, pp. 23-24, 26-27.
[4038] P-3053: CAR-OTP-2130-6359, at 6359, 6361, para. 11.
[4039] P-3056: T-020, pp. 6-8; P-3056: T-021, p. 19.
[4040] P-3064: T-074, pp. 7, 12.

in Bangui,[4041] the Seleka took them away,[4042] together with an individual called '[REDACTED]'.[4043] P-3064 and P-3056 recalled that this took place on 18 August 2013 at around 23:00.[4044]

1386. P-3064 described the Seleka members as being armed and some of them wearing 'military garb' with others 'wearing just military trousers' or 'rangers'.[4045] P-3064 and P-3056 testified that the Seleka members who took them away had a chief or a leader.[4046]

[4041] P-3064: T-074, pp. 8-11; P-3056: T-020, pp. 14-16; P-3056: T-021, p. 34; P-3053: CAR-OTP-2130-6359, at 6362, paras 16-17. P-3064 and P-3056 testified that they became aware that the persons who arrested them were part of the Seleka when they were brought to the OCRB Ngouciment that night: P-3064: T-074, p. 11; P-3056: T-020, p. 15.

[4042] P-3064, P-3056 and P-3053 refer to each other by name [REDACTED]. The Chamber notes that the names of [REDACTED] and [REDACTED] correspond to the given names of P-3064 and P-3056, respectively. *See* P-3056: T-020, p. 6; P-3064: T-074, p. 6. However, P-3053's name in his prior recorded testimony appears as [REDACTED]: P-3053: CAR-OTP-2130-6359, at 6359. The Chamber notes an investigation report concerning P-3053's death certificate, in which the Prosecution investigators asked P-3053's mother about her son's nicknames; she stated that even though P-3053's official name was [REDACTED], no one called him that and among family members he was always called '[REDACTED]': investigation report, CAR-OTP-2134-1593, at 1593. The Chamber notes that while the Defence raised a number of inconsistencies in P-3053's account, it did not take issue with his name and identity as '[REDACTED]': Defence Response to the 68(2)(c) Request, ICC-01/14-01/21-340-Red, paras 71, 85-88. There is also no indication on the record that P-3053 could have been someone other than the '[REDACTED]' described by witnesses. Having regard to the above, the Chamber understands the name [REDACTED] in the accounts of the concerned witnesses to be a reference to P-3053.

[4043] The Defence raised an inconsistency in the accounts of the three witnesses with respect to the number of individuals arrested at the funeral, with P-3053 recalling six people and P-3064 and P-3056 testifying about four people: Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 498. The Chamber notes that P-3053 stated that six people were arrested in total, namely himself, [REDACTED], [REDACTED], [REDACTED], [REDACTED] and [REDACTED]: P-3053: CAR-OTP-2130-6359, at 6363, para. 24. However, P-3064 did not recognise the names [REDACTED] and [REDACTED], when asked about them in court: P-3064: T-075, pp. 30-31. Similarly, P-3056 did not mention the name [REDACTED] when talking about the people who were arrested and did not know anyone called [REDACTED]: P-3056: T-020, p. 14; P-3056: T-021, pp. 69-70. Having regard to this and to the conclusions concerning P-3053's credibility, the Chamber is not satisfied that persons called [REDACTED] and [REDACTED] were among those arrested at the funeral along with P-3064, P-3056, and P-3053. However, both P-3056 and P-3053 recalled a person called '[REDACTED]' being arrested with them: P-3056: T-020, p. 14; P-3056: T-021, pp. 18-19; P-3053: CAR-OTP-2130-6359, at 6363, para. 24. Further, while P-3064 testified that he did not know the name '[REDACTED]', he recalled that four men were arrested at the same time, namely himself, P-3056, P-3053 and one of [REDACTED] friends whose name he forgot and did not know: P-3064: T-074, p. 9; P-3064: T-075, p. 30. On this basis, the Chamber is satisfied that a fourth individual whom all the three witnesses recalled being arrested along with them is a reference to a person called [REDACTED]. In this respect, the Chamber does not consider P-3064's lack of recollection of this name to negatively impact the credibility of his account.

[4044] P-3064: T-074, p. 8; P-3056: T-020, p. 14; P-3056: T-021, p. 34. The Chamber notes that P-3053 recalled the date of arrest as 17 August 2013 and does not consider this discrepancy in P-3053's account to be material: P-3053: CAR-OTP-2130-6359, at 6362, para. 16. Based on the accounts of P-3064 and P-3056 concerning the date of the funeral and when the Seleka took them away, the Chamber concludes that the Seleka took them away on 18 August 2013. As regards the time, P-3064 testified that it was at 23:00 'in the evening […] that they came to arrest us' and P-3053 stated that it happened '[a]round 23:30': P-3064: T-074, pp. 10-11; P-3053: CAR-OTP-2130-6359, at 6362, para. 17. P-3056 testified that he was at the funeral at 16:00 on 18 August 2013 but did not specify the time when the Seleka arrived and took them away: P-3056: T-020, p. 14; P-3056: T-021, p. 34. Based on the account of P-3064 and P-3053 concerning when the Seleka 'came to arrest [them]', the Chamber is satisfied that this took place around 23:00.

[4045] P-3064: T-074, pp. 11, 15.

[4046] P-3064: T-074, pp. 12-15; P-3056: T-020, p. 15; P-3056: T-021, pp. 36-37.

In particular, P-3064 recalled that a Seleka member called 'Commando' was among these Seleka members and played a leading role in their 'arrest'.[4047]

1387. P-3064 and P-3056 described how the Seleka members who took them away made them get into one vehicle.[4048] P-3064 recalled being handcuffed to another one of the men on the way to the OCRB Ngouciment and 'that there was no way that [they] could escape'.[4049]

1388. P-3064 testified that none of the Seleka members told them why they were taking them away.[4050] P-3064 recalled being the only one out of the four to have 'the courage to ask them why they had arrested us and what we had done', upon which Commando slapped P-3064 with his pistol.[4051] P-3064 testified that after being loaded into the vehicle and on the way to the OCRB Ngouciment, he asked again why they had been arrested but received no answer.[4052] P-3064 recalled that they were 'in a state of shock' and 'nobody dared ask any further questions'.[4053] P-3064 recalled that on the way to the OCRB Ngouciment, a Seleka member asked which one of them was '[REDACTED]', but they were all frightened and none of them answered.[4054]

1389. P-3056 testified that the Seleka commander of the OCRB Ngouciment unit told them 'right at the outset, when [they] were arrested at the funeral, that […] a well-known dangerous person in [their] group was in cahoots with the president [François Bozizé] who had been overthrown, and that that individual was armed'.[4055]

[4047] P-3064: T-074, p. 12; P-3064: T-075, p. 34. P-3053 also stated that a person called 'Commando' was among those Seleka members who took them away and recalled, *inter alia*, that Commando was wearing a polo shirt and carrying a pistol at the time: P-3053: CAR-OTP-2130-6359, at 6362-6363, paras 20-23. P-3056 did not mention a person called 'Commando' in his testimony but gave evidence that a 'Seleka lieutenant' arrested them and was wearing 'civilian clothing': P-3056: T-021, p. 36; P-3056: T-020, p. 15. The Chamber is satisfied that a person called Commando was among those that arrested the four men and had a leading role in taking them away. The Chamber recalls its conclusion that P-3053's evidence concerning the circumstances of his detention can only be relied upon to the extent that it is corroborated by other witnesses. In the present instance, it considers P-3053's evidence concerning Commando's armed presence when the four men were taken away from the funeral sufficiently corroborated by P-3064's testimony.

[4048] P-3064: T-074, pp. 12-14; P-3064: T-075, p. 33; P-3056: T-020, p. 15; P-3056: T-021, pp. 36-37. P-3053 stated that there were six vehicles and described their make: P-3053: CAR-OTP-2130-6359, at 6362-6363, paras 18-24. The Chamber did not rely on P-3053's evidence regarding the vehicles in which they travelled and is satisfied that the four men were taken away in one vehicle, based on P-3064 and P-3056's testimonies.

[4049] P-3064: T-074, pp. 12-14.

[4050] P-3064: T-074, pp. 12, 15.

[4051] P-3064: T-074, pp. 12, 15.

[4052] P-3064: T-074, pp. 12, 15.

[4053] P-3064: T-074, pp. 12, 15. *See also* P-3053: CAR-OTP-2130-6359, at 6364, para. 33.

[4054] P-3064: T-074, p. 15.

[4055] P-3056: T-020, pp. 21-22.

ii. Detention at the OCRB Ngouciment

1390. P-3064, P-3056 and P-3053 testified that the Seleka members drove them to the OCRB Ngouciment and took them inside, asked questions relating to their identity and registered them.[4056] P-3056 and P-3053 recalled that the Seleka members searched them on their arrival at the OCRB Ngouciment.[4057] P-3064 and P-3056 stated that the Seleka members who brought them there did not give them a reason for bringing them to the OCRB Ngouciment.[4058]

1391. P-3064, P-3056 and P-3053 testified that the Seleka placed them in an over-crowded cell with several detainees at the OCRB Ngouciment, where they spent one night.[4059] In particular, P-3064 recalled that there were so many people in this cell that they could not sit down,[4060] and P-3056 stated that they had to remain standing throughout the night.[4061] P-3064 testified that he was pushed into the cell, receiving a blow to the back and bumped into a metal drum inside the cell that was being used as a toilet.[4062]

1392. P-3064 testified that [REDACTED] came to the OCRB Ngouciment that night to find out why they had been arrested and 'those people said to her that the reasons for our arrest were different' to those of other detained people.[4063]

iii. Transfer from the OCRB Ngouciment to the OCRB Central

1393. P-3064, P-3056 and P-3053 gave evidence that the Seleka transferred the four of them

[4056] P-3064: T-074, p. 14; P-3053: CAR-OTP-2130-6359, at 6364-6365, paras 34, 37; P-3056: T-020, p. 15; P-3056: T-021, pp. 37-38.
[4057] P-3056: T-021, pp. 37-38; P-3053: CAR-OTP-2130-6359, at 6365, paras 36-37. The Chamber notes that both P-3056 and P-3053 gave evidence about the Seleka searching and seizing money from them at the OCRB and the OCRB Ngouciment respectively: P-3056: T-020, p. 16; P-3056: T-021, pp. 35, 41-42. The Defence challenged the credibility of these claims: Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 501. The Chamber recalls its conclusions concerning the credibility of P-3056 and P-3053. *See* above paras 260, 264-265. The Chamber notes that both witnesses describe unusually large sums of money being seized from them considering that they were at a funeral when the Seleka detained them. P-3056 stated that they were searched on arrival at the OCRB Ngouciment, but that the large sum of money he had on his person was not discovered until they arrived at the OCRB Central. P-3056 did not provide evidence concerning the recovery of money from P-3053, and P-3053 did not confirm that money was seized from P-3056, while P-3064 provided no evidence in this regard. Having regard to the fact that P-3056 and P-3053's respective accounts are not corroborated by P-3064, the Chamber is not satisfied that the Seleka seized such large sums of money from P-3056 and P-3053.
[4058] P-3064: T-074, pp. 15, 18-19; P-3064: T-075, p. 36; P-3056: T-020, pp. 15, 21.
[4059] P-3064: T-074, p. 14; P-3056: T-020, p. 15; P-3053: CAR-OTP-2130-6359, at 6365, para. 37.
[4060] P-3064: T-074, pp. 14, 16.
[4061] P-3056: T-020, p. 16.
[4062] P-3064: T-074, p. 16.
[4063] P-3064: T-075, p. 36; P-3056: T-020, p. 17.

from the OCRB Ngouciment to the OCRB Central the next morning.[4064] P-3064 stated that, when they were being taken out of the cell at the OCRB Ngouciment, their co-detainees said that they were going to be killed, following which, they broke down weeping.[4065] P-3064 recalled that a Seleka member said to him 'Are you not a man? Can you not endure?', upon which P-3064 asked the Seleka member what he (P-3064) had done wrong and where they were taking him (P-3064), but the Seleka member did not answer.[4066]

iv. Detention at the OCRB Central

1394. P-3064 and P-3053 stated that upon arrival at the OCRB Central, the Seleka took the four of them to an office inside the main building of the OCRB.[4067] P-3064 recalled entering the OCRB building via a flight of stairs and meeting the 'chief of the OCRB, that is the one who had ordered that we be brought to the OCRB'.[4068]

1395. P-3064 recalled that the chief of the OCRB stared at them intently and ordered that they be placed in the underground cell.[4069] P-3064 testified that he was surprised, as they simply opened a hole which had been covered by cardboard and ordered them to undress and 'enter that hole'.[4070] P-3064 recalled being frightened and attempting to resist, when an armed Seleka member loaded his weapon and they were again ordered to get in, so

[4064] P-3064: T-074, pp. 19-20; P-3053: CAR-OTP-2130-6359, at 6365, para. 38; P-3056: T-020, p. 19; P-3056: T-021, pp. 39-40. *See also* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 499, referring to P-3056: T-021, p. 40; P-3064: T-075, p. 36; P-3053: CAR-OTP-2130-6359, at 6365, para. 38. The Chamber notes that all three witnesses testified that the four of them travelled in one vehicle when being transferred from the OCRB Ngouciment to the OCRB Central. However, their accounts differ as regards other vehicles that accompanied them, with P-3064 testifying that there was one vehicle following theirs; P-3053 thought there were two other vehicles, whereas P-3056 said that there were no other vehicles apart from the one they were in traveling in. The Chamber considers this inconsistency about the number of other vehicles accompanying the vehicle transferring them to be immaterial. As such, it has no impact on the credibility of their claim that they were all transferred from the OCRB Ngouciment to the OCRB Central in one vehicle.
[4065] P-3064: T-074, pp. 19-20.
[4066] P-3064: T-074, pp. 19-20; P-3056 stated that he did not know the reason for his transfer: P-3056: T-020, p. 17.
[4067] P-3064: T-075, pp. 5-6, referring to sketch, CAR-OTP-2135-2841, photograph of the OCRB, CAR-OTP-2033-6870; P-3064: T-075, p. 38; P-3053: CAR-OTP-2130-6359, at 6365-6366, paras 40-41. P-3056 stated that when they arrived at the OCRB Central, they got out of the vehicle, were registered by the Seleka members there and then thrown into the underground cell: P-3056: T-020, p. 21. The Chamber notes that P-3064 and P-3056 both place the underground cell inside the OCRB building but provide slightly different accounts as regards the location of the desk that they claim was occupied by Mr Said. P-3056 marked in a red circle, 'the desk of [his] torturer': P-3056: T-021, p. 14, referring to photograph, CAR-OTP-2033-7041 (annotated version, CAR-REG-0002-0033). P-3064 testified that Mr Said's office was not more than five metres from the underground cell: P-3064: T-074, p. 32; P-3064: T-075, p. 5, referring to sketch, CAR-OTP-2135-2841.
[4068] P-3064: T-074, pp. 21, 31.
[4069] P-3064: T-074, pp. 30-31.
[4070] P-3064: T-074, p. 21. P-3064 identified the top of the underground cell in a photograph: P-3064: T-075, p. 8, referring to photograph, CAR-OTP-2033-7555.

they jumped and fell into the hole.[4071]

1396. P-3064 identified the OCRB chief as Mr Mahamat Said and explained that his office was in the room containing the underground cell.[4072] He identified Mr Said as the leader because he gave instructions to and was respected by everyone, interviewed all the detainees and decided each of their fates.[4073] P-3064 was forthcoming in explaining that he only came to know that the chief's name was Mahamat Said after they were released, when he saw him standing by a car, with his name written on 'the outside of the car'.[4074] The Chamber notes that in court, P-3064 identified Mr Said in three photographs as well as a screenshot of the Court's website concerning the present case.[4075] While P-3064 incorrectly identified another person as Mr Said in two other photographs, the Chamber notes that this individual bore a strong resemblance to Mr Said at the time of the events.[4076] The Chamber further notes that P-3064's testimony that Mr Said ordered that they be placed in the underground cell was corroborated by P-3056's testimony.[4077]

1397. In these circumstances, the Chamber is satisfied that P-3064 reliably identified Mr Said as 'the chief' of the OCRB who ordered that the four men be placed in the underground cell.[4078]

1398. P-3064 described the underground cell as 'a place where one could not live'.[4079] P-3064 and P-3056 testified about there being human faeces and all three witnesses recalled insects that would crawl on their bodies.[4080] P-3064 and P-3053 gave evidence about having to urinate in the cell.[4081] P-3064 and P-3053 recalled not having enough space to

[4071] P-3064: T-074, p. 21.
[4072] P-3064: T-075, pp. 8-9, referring to photograph, CAR-OTP-2033-7555.
[4073] P-3064: T-074, pp. 31-32. *See also* P-3064: T-074, p. 23.
[4074] P-3064: T-074, pp. 27-30.
[4075] P-3064: T-075, pp. 11-13, referring to photographs, CAR-OTP-2094-2006, CAR-OTP-2069-3227, CAR-OTP-2069-3226; screenshot, CAR-OTP-2135-2842.
[4076] P-3064: T-075, pp. 10-11, referring to photographs, CAR-OTP-2069-2452, CAR-OTP-2069-0671. As regards the photograph, CAR-OTP-2069-0671, the Chamber notes [REDACTED] identified the person concerned as Fadoul Bachar: [REDACTED]. *See also* [REDACTED], referring to photograph, CAR-OTP-2069-0671 ([REDACTED]).
[4077] P-3056: T-020, pp. 21-22. The Chamber notes that P-3056 identified Mr Said in two contemporaneous photographs: P-3056: T-021, pp. 8-12, referring to photographs, CAR-OTP-2069-3226 (annotated version, CAR-REG-0002-0031), CAR-OTP-2069-3227 (annotated version, CAR-REG-0002-0032).
[4078] P-3064: T-074, p. 21. The Chamber also considered that P-3064's evidence was consistent with the Chamber's findings on Mr Said's role and authority at the OCRB, particularly in ordering the OCRB Seleka to place detainees in cells, including the underground cell. *See* above paras 914-915.
[4079] P-3064: T-074, p. 21.
[4080] P-3053: CAR-OTP-2130-6359, at 6366, para. 44; P-3056: T-020, p. 21.
[4081] P-3064: T-074, p. 32; P-3053: CAR-OTP-2130-6359, at 6366, para. 44.

stand up or lie down.[4082] P-3056 described the dimensions of the cell as 3 to 3.6 metres wide and 3 metres high, and having 'to do gymnastics to get out' and 'climb on the shoulders of another to get out'.[4083] P-3064, P-3056 and P-3053 testified that the underground cell was covered by a board.[4084] P-3056 and P-3053 recalled that no light could get in.[4085] P-3064 recalled that one could not 'see what was going on outside, but […] would hear everything that was being said'.[4086] P-3064 testified that he pleaded with the Chief to have pity on them and asked what they had done to deserve being in the hole, but no one answered his calls.[4087]

1399. All three witnesses recalled receiving food brought by their family members during their detention at the OCRB.[4088] However, P-3064 specified as regards his first night in the underground cell at the OCRB, that he asked for water and food and did not receive any,[4089] and stated that when their family members got to know that they were at the OCRB, they started to bring food, but he himself went on hunger strike and only ate once during his detention at the OCRB.[4090]

1400. P-3064 testified that when they were taken to the underground cell, there was another person who was already there before them and on the first night of their detention at the OCRB (*i.e.* 19 August 2013), someone took him away late at night; no one else was brought into the underground cell while they were detained together at the OCRB.[4091] The Chamber notes its conclusions concerning Incident Q that the OCRB Seleka put P-2400 in the underground cell shortly after [REDACTED] August 2013 for five

[4082] P-3064: T-074, p. 35; P-3053: CAR-OTP-2130-6359, at 6366, para. 44.
[4083] P-3056: T-020, p. 21.
[4084] P-3064: T-074, pp. 4-5; P-3064: T-075, p. 38, referring to CAR-OTP-00000010, at 000009, para. 39; P-3056: T-021, p. 14, referring to photograph, CAR-OTP-2033-7041 (annotated version, CAR-REG-0002-0033); P-3053: CAR-OTP-2130-6359, at 6366, para. 44.
[4085] P-3056: T-020, p. 21; P-3053: CAR-OTP-2130-6359, at 6366, para. 44.
[4086] P-3064: T-074, p. 23; P-3064: T-075, pp. 38-39. P-3064 also recalled hearing others persons detained at the OCRB crying and wailing: P-3064: T-075, pp. 6-8, referring to photograph of cells, CAR-OTP-2033-6870, CAR-OTP-2033-7064.
[4087] P-3064: T-074, p. 22.
[4088] P-3064: T-074, p. 34; P-3053: CAR-OTP-2130-6359, at 6366, para. 44; P-3056: T-020, pp. 23-24.
[4089] P-3064: T-074, p. 22; P-3056: T-021, p. 54.
[4090] P-3064: T-074, pp. 34-35.
[4091] P-3064: T-074, pp. 21-23; P-3064: T-075, p. 40; P-3064: T-074, pp. 22-23, 39. The Chamber notes that P-3056 testified that initially there were four of them and did not mention there being another individual in the underground cell at the time they were brought in: P-3056: T-020, p. 25. On the other hand, P-3053 stated that there were many detainees already in the cell and they were squashed in like sardines in a tin: P-3053: CAR-OTP-2130-6359, at 6366, para. 41. P-3056 stated that, initially, only the four men 'arrested at the funeral' were present in the underground cell, and that another person was brought in on 'Tuesday' *i.e.* 20 August 2013: P-3056: T-020, p. 25. P-3056 testified that the additional person's name was [REDACTED], but that he did not know this person's last name: P-3056: T-020, p. 26.

days.[4092] Further, the Chamber notes that the OCRB Seleka took P-3064 out of the underground cell the same day that they put P-0547 in the underground cell (*i.e.* [REDACTED] August 2013).[4093] Having regard to these conclusions and granting P-3064 appropriate latitude for the passage of time and the traumatic nature of the events, the Chamber is satisfied that when the OCRB Seleka put the four men (P-3064, P-3056, P-3053 and [REDACTED]) into the underground cell on 19 August 2013, there was at least one other person already in the underground cell who was taken away subsequently.

1401. P-3064 and P-3056 gave evidence that on the first night of their detention at the OCRB,[4094] '[REDACTED]' (P-3056) was taken out of the underground cell.[4095]

1402. P-3056 testified that the person he identified as Mr Said[4096] handcuffed him, put a black

[4092] *See* above paras 1035, 1043, 1045, 1048, 1050.
[4093] *See* above paras 1018-1019.
[4094] P-3064: T-074, pp. 24-25; P-3056: T-020, pp. 26-27. The Chamber notes that P-3064 testified that this happened at night and 'one day after [they] were arrested' and from the context, P-3064 appears to be talking about the day the Seleka brought them to the OCRB and put them in the underground cell. P-3056 ('[REDACTED]') also stated that this happened at midnight on the 'very same day' that the Seleka transferred them from the OCRB Ngouciment to the Central OCRB, on 'the night of Monday into Tuesday'. P-3053 also recalled that [REDACTED] was taken out of the cell, although in his recollection this took place on the second night of their detention at the OCRB. Although the Chamber does not consider this discrepancy to be significant, it does not find P-3053's evidence to be reliable regarding the timing of this event: P-3053: CAR-OTP-2130-6359, at 6369, para. 56. *See also* above paras 256-260.
[4095] P-3064: T-074, pp. 24-25; P-3056: T-020, pp. 26-27. As to the Defence's submissions regarding inconsistencies in the witnesses' evidence with respect to the number of detainees removed from the cell and Mr Said's involvement (Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 503), the Chamber notes that P-3064 conceded that he had forgotten some details, but testified that the Seleka 'asked for [REDACTED] and took him out of the hole' and agreed that 'no one else got out of the hole': P-3064: T-074, pp. 24-25; P-3064: T-076, p. 6. P-3064 did not provide any indication of the identity of the individual who sought out P-3056 ('[REDACTED]') from the underground cell and took him away. P-3056 recalled that Mr 'Said requested that [they] be taken out of the underground cell', took them into the courtyard and then chose P-3056 to go with him: P-3056: T-020, p. 27; P-3056: T-021, p. 6. The Chamber finds the inconsistencies between their accounts as to whether all of the detainees were removed from the cell *before* P-3056 was singled out to be minor and immaterial to the factual allegations and, recalling the passage of time since the events, considers they have no impact on the credibility of P-3056's and P-3064's accounts. P-3053 stated that on the second night of their detention in the underground cell, Mr Said removed three people from the underground cell, including [REDACTED] and whom they accused of being a mercenary of Bozizé. P-3053 testified that 'only [REDACTED] came back'. *See* P-3053: CAR-OTP-2130-6359, at 6369, para. 56. The Chamber considers that this corroborates the accounts of the other witnesses only to the extent that at least [REDACTED] (P-3056) was taken out of the underground cell on one of the nights during their detention at the OCRB. Otherwise, in line with its credibility assessment of P-3053, the Chamber is not persuaded that P-3053 was able to identify Mr Said. Further, noting that his testimony regarding the presence of other detainees in the underground cell and their removal from the cell is not corroborated by the other witnesses, the Chamber considers this part of his testimony to be unreliable.
[4096] *See* below para. 1410.

plastic hood over his head,[4097] and ordered him to get into a vehicle.[4098] P-3056 gave evidence that this person drove the vehicle with P-3056 sitting alongside in the front seat and described in detail the route they took, followed by a vehicle with armed Seleka members.[4099] P-3064, who stated that he (P-3064) remained in the underground cell, testified that they heard the gate open and close and then heard the sound of a car driving off, and they understood that the Seleka members were taking P-3056 somewhere.[4100]

1403. P-3056 recalled that, as they were driving, the person he identified as Mr Said stated that he had received information to the effect that among P-3056's group there was 'an individual who was reputed to be dangerous' and who 'was in league with the toppled president […] and his right-hand man Eugene Ngaikouesse'.[4101] P-3056 stated that he told this person that he did not know 'Ngaikouesse' or Bozizé, that he was not a member of any organisation with political affiliation, and that he had just come back from abroad and was unemployed.[4102] P-3056 stated that this person asked about his ethnicity, wanting to know if P-3056 'had a biological link with the dignitaries of the regime', or in other words, former president Bozizé who was of the Gbaya ethnic group.[4103] P-3056 replied that he was [REDACTED], and the person he identified as Mr Said, insisting on being told the truth, threatened to kill him.[4104]

1404. P-3056 testified that at some point they arrived 'in front of the Primature', and the person he identified as Mr Said exited the vehicle, told P-3056 to get out of the vehicle, pulled

[4097] P-3056: T-020, p. 27. The Chamber notes that the Defence also raises the question of P-3056 being able to observe parts of the events in spite of the hood placed on his head: Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 503. As regards whether P-3056 had been placed under a hood, P-3064 testified that according to what P-3056 had told him, P-3056 had remained hooded throughout the drive and until he returned to the OCRB: P-3064: T-075, p. 42. P-3053 recalled being told by P-3056 that Mr Said had put the hood over his head, but did not mention in his statement whether P-3053 himself saw P-3056 in a hood. The Chamber considers that there is no indication whether P-3064 or P-3053 directly observed P-3056 with a hood placed over his head. Accordingly, and recalling the Chamber's concerns regarding P-3056's credibility, the Chamber was unable to ascertain the veracity of P-3056's sole claims of having a hood placed over his head and does not rely on it. Further, the Chamber rejects as speculative the Defence's arguments concerning the range of vision P-3056 may have had through the hood at the time.
[4098] P-3056: T-020, pp. 27-28.
[4099] P-3056: T-020, pp. 28-30. P-3056 explained that he was able to see that the Seleka members were armed with Kalashnikovs because the hood that was over his head 'had two holes in it, and the hood had been pierced with holes to enable the person wearing it […] to breathe', adding that he 'moved those holes in front of [his] right eye, which enabled [him], more or less, to have some form of vision to see what was going on around [him]': P-3056: T-020, p. 29. P-3064 stated that P-3056 subsequently told him that he was able to identify the route he was taken on despite being hooded: P-3064: T-075, pp. 41-42.
[4100] P-3064: T-074, p. 25.
[4101] P-3056: T-020, pp. 27-28.
[4102] P-3056: T-020, p. 28.
[4103] P-3056: T-021, pp. 7-8.
[4104] P-3056: T-021, p. 7.

out a pistol to put a silencer on it and loaded bullets into it.[4105] P-3056 recalled receiving a blow to the nape of his neck, which rendered him semiconscious.[4106] P-3056 stated that when he was sprawled out on the ground, the person he identified as Mr Said withdrew with his men and had a discussion in Arabic with them, after which this person returned to P-3056 and said to him in Sango '[s]tupid bloody fool, get up'.[4107] P-3056 testified that he was incapable of getting up, but that two or three Seleka members helped him back up on his feet.[4108]

1405. P-3056 testified that the person he identified as Mr Said ordered the Seleka members to take P-3056 to the 2nd arrondissement police station, kill him, put his body in a bag and throw him into the Oubangui-Chari River.[4109] P-3056 recalled that this person instructed him (P-3056) to get back into the vehicle, and that thereafter he (P-3056) was accompanied by a few Seleka members, while the person he identified as Mr Said left in a different direction.[4110] According to P-3056, the Seleka members drove past the 2nd arrondissement police station but did not stop and took him back to the OCRB instead.[4111] P-3056 stated that the bag on his head and the handcuffs were removed and he was placed back in the cell together with the other detainees.[4112]

1406. P-3064 stated that, upon P-3056's return to the underground cell, he noticed that P-3056 [REDACTED] was trembling and shivering.[4113] P-3064 recalled P-3056 telling him that the Seleka had covered his head with a plastic bag that had a hole through which he tried to look, the Seleka had driven him around in Bangui until they reached the Prime Minister's office, questioned him about being part of 'Ngaïkosset's elements', sought information about the former president, and threatened P-3056 with a gun to his head.[4114] P-3064 testified that P-3056 told him at the time that he thought that the person who had

[4105] P-3056: T-020, p. 30; P-3056: T-021, p. 7.
[4106] P-3056 stated he could not recall for how long he was in this state but claimed it was 'absolutely certain […] it could have been between half an hour, even up to an hour': P-3056: T-020, pp. 30-31.
[4107] P-3056: T-020, p. 31.
[4108] P-3056: T-020, p. 31.
[4109] P-3056 testified that he felt terrified upon hearing this: P-3056: T-020, p. 32.
[4110] P-3056: T-020, p. 32.
[4111] P-3056: T-020, p. 32.
[4112] P-3056: T-020, p. 33. P-3056 testified that he saw the other detainees crying when he saw them after he was taken out of the cell: P-3056: T-021, pp. 53-54. The witnesses stated that, following P-3056's return to the cell, they wanted to show their discontentment with being put on 'death row' so they went on a hunger strike: P-3064: T-074, p. 34; P-3056: T-021, p. 54.
[4113] P-3064: T-074, p. 25.
[4114] P-3064: T-074, pp. 25-26; P-3064: T-075, pp. 41-42, referring to addendum to P-3064's prior recorded statement: CAR-OTP-00000010, at 000010, para. 43.

questioned him was [REDACTED] and that P-3056 had recognised his voice and accent from having previously heard him speak in public.[4115]

1407. As set out above, the Chamber notes that P-3064 and P-3056 both recalled that '[REDACTED]' (P-3056) was taken out of the underground cell by a Seleka member at night; this Seleka member put him (P-3056) in a vehicle and drove around; then this Seleka member interrogated P-3056 about Ngaïkosset and François Bozizé, pointed a gun at him and threatened to kill him, upon which P-3056 [REDACTED]; P-3056 was brought back to the underground cell in a terrible state. P-3053 also stated that P-3056 was taken out of the underground cell at night and accused of being Bozizé's mercenary.[4116] P-3053 recalled being told by P-3056 at the time that he was driven around in a vehicle and threatened to be killed with a gun.[4117] Accordingly, the Chamber is satisfied that a Seleka member ordered P-3056 to get out of the underground cell at night, drove him in a vehicle, questioned him about Ngaïkosset and Bozizé and threatened to kill him with a gun in a manner that caused P-3056 to [REDACTED], before returning him to the underground cell.

1408. As highlighted by the Defence,[4118] the Chamber notes that P-3056 and P-3064's accounts vary significantly as regards the identity of the Seleka member who questioned and threatened to kill P-3056 when he was taken out of the underground cell. P-3053, on the other hand, recalled being told by P-3056 that Mr Said had threatened him at the 'Primature'.[4119]

1409. Noting these differences, and recalling its conclusions concerning the credibility of P-3056's and P-3053's accounts,[4120] the Chamber considers that their accounts do not corroborate each other as regards Mr Said's purported involvement. Accordingly, the Chamber is not satisfied on the basis of the evidence of P-3056 and P-3053 that Mr Said was the person who took P-3056 out of the underground cell, drove him in a vehicle out of the OCRB, questioned him about Ngaïkosset and Bozizé, and threatened to kill him with a gun. As regards whether [REDACTED] may have been the person responsible for

[4115] P-3064: T-075, p. 41, referring to addendum to P-3064's prior recorded statement: CAR-OTP-00000010, at 000010, para. 43; P-3064: T-076, pp. 4-5.
[4116] P-3053: CAR-OTP-2130-6359, at 6369, para. 56.
[4117] P-3053: CAR-OTP-2130-6359, at 6369, para. 58.
[4118] Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 503.
[4119] P-3053: CAR-OTP-2130-6359, at 6369, paras 57-58.
[4120] *See* above paras 256-265.

threatening P-3056 with death, given that P-3064 was recounting years after the fact what P-3056 had told him at the time and that this testimony is contradicted by P-3056 himself, the Chamber also cannot rely on P-3064's testimony in this regard.

1410. Further, the Chamber notes that there is no indication that P-3064 or P-3053 observed any wounds on P-3056's body as a result of this interrogation, or were told anything by P-3056 about being physically assaulted to the point of losing consciousness. P-3053 stated that he was informed by P-3056 that Mr Said pointed a pistol with a silencer at P-3056, pressed the trigger twice and the pistol did not fire.[4121] Having regard to this and to its conclusions on P-3056's credibility,[4122] based solely on P-3056's testimony, the Chamber could not establish beyond reasonable doubt that P-3056 suffered a blow to the nape of his neck, rendering him semi-conscious.

1411. P-3053 stated that on their first night at the OCRB, upon Mr Said's orders, Seleka members took him (P-3053) out of the underground cell and Mr Said, Yaya and two other Seleka members beat him with belts outside of the OCRB building.[4123] The investigators took photos of scars on P-3053's head and on his elbow.[4124] The Chamber notes that neither of the other two witnesses described P-3053 being beaten at any point during their detention in the underground cell. The Chamber also recalls P-3064's evidence that when P-3056 was taken out on the first night, 'no one else got out of the hole'.[4125] The Chamber recalls its conclusions concerning the credibility of P-3053's account and its doubts regarding P-3053's description of Mr Said and Yaya's physical appearance.[4126] Therefore, the Chamber cannot be satisfied, based solely on P-3053's statement, that he was beaten during his detention at the OCRB by Mr Said, Yaya and other Seleka members on Mr Said's orders.

v. Release of P-3064, P-3056 and another man from the OCRB Central

1412. P-3064 testified that someone from the prosecutor's office in Bangui came to the OCRB

[4121] P-3053: CAR-OTP-2130-6359, at 6369, paras 57-58.
[4122] *See* above paras 261-264.
[4123] P-3053: CAR-OTP-2130-6359, at 6367-6368, paras 51-53.
[4124] P-3053: CAR-OTP-2130-6359, at 6376-6477.
[4125] P-3064: T-074, pp. 24-25; P-3064: T-076, p. 6.
[4126] *See* above paras 257-260.

on [REDACTED] August 2013[4127] and asked the OCRB Seleka to remove the four men, namely P-3064, P-3056, P-3053 and [REDACTED] from the underground cell.[4128] P-3064 testified that once they were brought out of the hole, they were given their clothes, they dressed, and then 'were made to sit down in front of that lady' who began to question them.[4129] P-3064 recalled that she spoke to each of them individually.[4130] P-3064 recalled that she asked them the reasons for their arrest and how long they had been in the cell and that she noted their names and what they had told her.[4131] P-3064 testified that he told her that they had been arrested at the funeral, brought to the OCRB Ngouciment, where they spent a night before being transferred to the underground cell at the OCRB, and that they did not know why they had been arrested or why they were still being held.[4132]

1413. P-3064 testified that, the next day, [REDACTED] August 2013, 'that lady came back and talked with the chief' and they were then taken to the *Tribunal de Grande Instance*,[4133] where Prosecutor Tolmo introduced himself to them as the prosecutor, questioned them in person, one after the other, and 'everything [they] said was written

[4127] As regards the identity of this person, P-3064 could not remember her name but recalled that it was a woman, who introduced herself as 'the representative of the prosecutor' and 'a senior prosecutor': P-3064: T-074, pp. 23-24; P-3064: T-076, p. 7. P-3064 also testified that 'the lady who came to visit [them] at the OCRB was […] a trial lawyer': P-3064: T-074, p. 37. P-3064 could not recall if this person came to the OCRB with someone else or if it was just her: P-3064: T-076, p. 9. The Chamber further notes that on this occasion, P-3064 also referred to this person as 'the prosecutor'. The Chamber considers that P-3064's testimony is otherwise clear and internally consistent when describing these meetings. Further, the Chamber considers that P-3064's inability to recall the exact identity or role of the person whom he links to the prosecutor has no impact on the credibility of his account in this respect, given the passage of time since the events and the witness's level of education. *See* P-3064: T-076, pp. 7-8.

[4128] P-3064: T-076, pp. 8-9; P-3064: T-074, pp. 23-24, 36-37. P-3056 testified that on 'the Tuesday of [their] arrest', a policeman and a policewoman, whom he recognised as gendarmes on the basis of their uniform, arrived at the OCRB and saw them; '[a]ll they managed to do was to lift the flooring, which was separating [them] from the outside' and 'were not able to question [them] or to have physical contact with [them]': P-3056: T-020, p. 34; P-3056: T-021, pp. 57-58. The Chamber notes that in his testimony, P-3064 did not describe a visit by two gendarmes, and P-3056 made no mention of being questioned by the gendarmes. The Chamber considers that it is not clear whether P-3064 and P-3056 are indeed describing the same visit. Further, the Chamber notes that P-3053 stated that he was not able to talk to a lawyer for the entirety of his detention at the OCRB and in his statement, he did not mention any visit by gendarmes or anyone from the prosecutor's office: P-3053: CAR-OTP-2130-6359, at 6364, para. 33.

[4129] P-3064: T-074, pp. 24, 37-38; P-3064: T-076, pp. 7-8.

[4130] P-3064: T-076, p. 8.

[4131] P-3064: T-074, p. 24; P-3064: T-076, pp. 7-9.

[4132] P-3064: T-074, p. 24. *See also* P-3064: T-076, pp. 7-9. P-3064 stated that they felt that they could not tell her that they had been tortured, as Seleka members were also present during the questioning: P-3064: T-076, p. 8. P-3064 stated he did not recall whether he signed a statement after this questioning took place: P-3064: T-076, p. 9.

[4133] P-3064: T-074, pp. 24, 36-37. *See also* P-3064: T-076, p. 7.

down'.[4134] P-3064 recalled the prosecutor asking them if they knew about the reasons for their arrest and the charges against them, in response to which P-3064 said, *inter alia*, that they 'were completely unaware of the grounds of arrest', recounting that they were at a funeral of a family member when they were arrested and that no one had lodged a complaint against them.[4135]

1414. P-3064 specified that Prosecutor Tolmo decided to free them, a document of release was drafted, they signed a document and were subsequently released.[4136]

1415. P-3056 testified that, on [REDACTED] August 2013, the detainees who had been released following the meeting with Prosecutor Tolmo were taken back to the OCRB and received a release note signed by two OCRB Seleka members.[4137]

1416. As regards who was released following a meeting with Prosecutor Tolmo, P-3064 and P-3056 recalled that P-3064, P-3056 and [REDACTED] were released.[4138] P-3056 and P-3053 gave evidence that P-3053 was not released at the same time as the other three and remained in the underground cell at the OCRB.[4139]

1417. As regards why P-3053 was not released, P-3056 testified that it was because P-3053 was related [REDACTED] to one of François Bozizé's nephews.[4140] P-3053, on the other hand, stated that the others were released because their relatives were [REDACTED].[4141]

[4134] P-3064: T-074, pp. 24, 36-37; P-3064: T-076, pp. 10-11, referring to victim application form, CAR-OTP-00025573, at 00010. The Chamber notes that P-3056 also gave evidence that they went to Prosecutor Tolmo's office, who asked them to introduce themselves: P-3056: T-020, p. 34.
[4135] P-3064: T-074, pp. 37-38.
[4136] P-3064: T-074, pp. 24, 36-37. P-0364: T-076, pp. 10-11, referring to victim application form, CAR-OTP-00025573, at 00010. P-3064 added that Prosecutor Tolmo informed them that they could file a complaint: P-3064: T-076, pp. 11-12. *See also* P-3064: T-074, p. 41.
[4137] P-3056: T-020, pp. 34, 36-37, referring to handwritten release note, CAR-OTP-2130-6657, dated [REDACTED] August 2013, which mentions that that note was prepared upon instruction from Mahamat Said, stating that [REDACTED] was being released due to a lack of evidence and assistance from the plaintiff, and bears two signatures at the bottom. According to P-3056, the note was signed by OCRB Seleka members [REDACTED] and [REDACTED], although P-3056 did not know who had drafted it: P-3056: T-020, p. 37; P-3056: T-021, pp. 63-64. The Chamber notes that P-3064's testimony contains no indication that the detainees were brought back to the OCRB. P-3064, asked whether the Prosecution had asked him for the document he had signed at the moment of his release from the OCRB, testified that he had told the Prosecution that he had lost his personal documents following the destruction and burning down of his house: P-3064: T-076, p. 12. P-3053 stated that after his release, P-3056 had shown him 'the release paper signed by Said': P-3053: CAR-OTP-2130-6359, at 6370, para. 63.
[4138] P-3064: T-074, pp. 24, 36-37; P-3056: T-020, p. 34. P-3064 and P-3056's release is corroborated by P-3053's account: P-3053: CAR-OTP-2130-6359, at 6370, para. 63.
[4139] P-3056: T-020, pp. 34-36; P-3053: CAR-OTP-2130-6359, at 6370, para. 63.
[4140] P-3056: T-020, pp. 34-36.
[4141] P-3053: CAR-OTP-2130-6359, at 6370, para. 63.

1418. P-3064 and [REDACTED] testified about the efforts made [REDACTED] to secure their release, including contacting individuals of influence in the Seleka regime in order to ensure their release through a prosecutor.[4142]

1419. The Chamber notes P-3056's evidence that [REDACTED] had contacted '[REDACTED]' to secure his release and that '[REDACTED]' visited [REDACTED].[4143] P-3056 recalled that '[REDACTED]' asked who '[REDACTED]' was, and [REDACTED] identified himself.[4144] P-3056 stated that '[REDACTED]' then told the detainees [REDACTED], before they were placed in the underground cell again.[4145] The Chamber notes that P-3064 and P-3053 do not recall any such visit by '[REDACTED]'. The Chamber also has regard to the role played by '[REDACTED]' at the OCRB and the rank attributed to him,[4146] as well as to the fact that the Chamber received no other evidence concerning a person called '[REDACTED]'. Accordingly, the Chamber does not rely on P-3056's claims concerning the visit by [REDACTED].

vi. Continued detention of one detainee (P-3053) at the OCRB Central and subsequent release

1420. P-3053, who remained in the underground cell at the OCRB as described below, stated that new detainees would arrive in the cell and others would be removed, and that he did not remember all the detainees from the underground cell but he remembered talking to some of them in the dark.[4147]

1421. In particular, P-3053 recalled that members of the OCRB Seleka beat a person named '[REDACTED]' at the OCRB.[4148] P-3053 stated that this person was accused of being in

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[4142] P-3064 explained that he was [REDACTED], and that P-3064's family contacted [REDACTED], which prompted the [REDACTED] to contact the [REDACTED], and request that instructions be given to the prosecutor for P-3064's release: P-3064: T-075, pp. 23-25. [REDACTED]. The Chamber also notes P-3053's evidence about one of [REDACTED] to secure his release: P-3053: CAR-OTP-2130-6359, at 6370, para. 64. Noting that P-3053 was relaying information that [REDACTED] told him and that the other two witnesses did not provide any evidence in this regard, the Chamber was unable to ascertain the truth of these claims. Having regard to its conclusions on P-3053's credibility, the Chamber has not relied on P-3053's evidence on the efforts made by [REDACTED] to secure his release.
[4143] P-3056: T-020, pp. 38-40.
[4144] P-3056: T-020, p. 39.
[4145] P-3056: T-020, p. 40. P-3056 identified the tap in the OCRB compound in a photograph: P-3056: T-021, pp. 14-15, referring to photograph of OCRB compound, CAR-OTP-2033-7064, (annotated version, CAR-REG-0002-0034).
[4146] *See* above para. [REDACTED].
[4147] P-3053: CAR-OTP-2130-6359, at 6366-6367, paras 45-46.
[4148] P-3053: CAR-OTP-2130-6359, at 6367, para. 47. P-3053 also stated that [REDACTED] were there when the OCRB Seleka beat P-0547 at the OCRB: P-3053: CAR-OTP-2130-6359, at 6367, para. 47. The Chamber notes

contact with [REDACTED] and that the OCRB Seleka severely beat him up with batons and belts in front of the buildings where the cells were, and tied him up using the *arbatachar* method.[4149] P-3053 also stated that this person's [REDACTED] brought him medicines to treat him because there was pus on the wounds on his arm joints.[4150]

1422. P-0547, whose first name is '[REDACTED]', recalled a fellow detainee in the underground cell named '[REDACTED]', which the Chamber understands to be a reference to P-3053.[4151]

1423. P-3053 and P-0547 recalled that members of the OCRB Seleka took them out of the underground cell towards the end of August 2013 and moved them into a cell in the OCRB courtyard.[4152] P-3053 and P-0547 testified that Prime Minister Nicolas Tiangaye subsequently visited the OCRB.[4153]

1424. P-3053 and P-0547 gave evidence of how OCRB police officers and officials

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that P-3064 did not recall a fellow detainee named [REDACTED] and that the OCRB Seleka removed P-3064, P-3056 and [REDACTED] from the underground cell on [REDACTED] August 2013. The Chamber also recalls its conclusions that the OCRB Seleka beat P-0547 on [REDACTED] August 2013. Having regard to this, as well as the Chamber's conclusions on P-3053's credibility, the Chamber could not conclude whether '[REDACTED]' were at the OCRB when P-0547 was beaten. *See* above para. 260.

[4149] P-3053: CAR-OTP-2130-6359, at 6367, para. 47. *See also* above paras 1020, 1025 and below paras 1460-1462, 1472. P-3053 gave evidence about Mr Said and [REDACTED] being directly involved in beating P-0547 at the OCRB. Having regard to the Chamber's conclusions concerning P-3053's identification of Mr Said and [REDACTED], the Chamber was not satisfied that he reliably identified Mr Said and [REDACTED] being involved in beating P-0547. The Chamber was nonetheless satisfied, based on P-0547's evidence, that members of the OCRB Seleka beat P-0547 and that he was returned to the underground cell with visible signs of torture.

[4150] P-3053: CAR-OTP-2130-6359, at 6367, para. 47. *See also* above para. 1024 and below para. 1468.

[4151] P-0547: T-013, pp. 3, 15, 17; P-0547: T-014, p. 32; P-0547: T-016, pp. 17-18, 21. The Chamber notes P-0547's testimony concerning the presence of a fellow detainee in the underground cell named [REDACTED], as well as escaping from the OCRB [REDACTED], at the end of August 2013. The Chamber considers that these details also appear in P-3053's statement, in which he describes having to remain in the underground cell after P-3064, P-3056 and [REDACTED] were taken out, and refers to a detainee called [REDACTED] with whom he escaped from the OCRB towards the end of August 2013 [REDACTED], after the Seleka left the OCRB: P-3053: CAR-OTP-2130-6359, at 6371, para. 71.

[4152] P-3053: CAR-OTP-2130-6359, at 6370-6371, para. 67; P-0547: T-014, p. 30; P-0547: T-016, p. 29; sketch of OCRB drawn by P-0547 in court, CAR-REG-0002-0014. The Chamber notes that P-3053 recalled Mr Said being present and gave evidence about the presence and involvement of 'General Abou' in ordering the Seleka members to bring him out of the underground cell. The Chamber does not rely on this portion of P-3053's evidence. In this respect, it recalls its conclusions concerning the credibility of P-3053's account regarding Mr Said and notes that P-0547 did not mention either Mr Said or General Abou as part of these events. The Chamber considers that it is clear, however, from both P-3053's and P-0547's testimony that they were taken out from the underground cell at this time, which is also consistent with the evidence received on the transfer of command of OCRB within the same timeframe. The Chamber could not ascertain from their evidence whether they were subsequently detained in the same cell in the courtyard of the OCRB building. *See* above paras 257-260. *See also* above para. 1030 and below paras 1482, 1484.

[4153] P-3053: CAR-OTP-2130-6359, at 6370-6371, paras 66, 68; P-0547: T-014, pp. 22, 30; P-0547: T-016, pp. 21-23. *See also* above paras 620, 686.

intervened,[4154] allowing them to leave [REDACTED] from the OCRB on 31 August 2013.[4155]

vii. Harm suffered

1425. As regards the harm suffered at the time, P-3064 stated that he 'was frightened' and 'in a great state of anxiety' and described how his mother could not come to visit him; P-3064 recalled being afraid of lodging a complaint and not being able to say what he felt; he stated that 'I was a [REDACTED], but I had been in prison, so I didn't want to undertake anything at all'.[4156]

1426. As regards the harm P-3064 continues to suffer as a result of his detention at the OCRB,[4157] P-3064 stated that he has no wish to see the OCRB and does not 'even want to think about it'; and when he does think about what happened to him, he gets 'very angry very easily', gets carried away by it, trembles and becomes aggressive towards people around him.[4158] P-3064 testified that he has 'great anguish when [he is] alone'.[4159] P-3064 added that when he sees soldiers in uniforms or carrying weapons, he is afraid.[4160] P-3064 stated that he is still traumatised to this day when he thinks about images of the OCRB; he has 'nightmares when [he] remember[s] how all those people suffered at that time'.[4161]

1427. As regards the harm that P-3056 continues to suffer as a result of his detention at the OCRB, P-3056 stated that he has dreams relating to this experience virtually daily; he felt humiliated after his experience because the underground cell 'was actually a transit place for criminals who have actually committed blood crimes […] who were waiting to

[4154] P-3053 attributed the release to the newly appointed 'OCRB Director', who was appointed at the same time as the Prime Minister: P-3053: CAR-OTP-2130-6359, at 6371, paras 69, 71. P-0547 testified about the involvement of Commissioner Mallo and other police officers in arranging their escape: P-0547: T-014, pp. 31-32. P-0547 recalled that at the time of his release, there was an order in force which had dismissed the Director-General of the OCRB, Commissioner Mallo, and the public prosecutor and he believed that the decision to have him released was made by [REDACTED]: P-0547: T-013, pp. 55, 59. *See also* above paras 1030-1031 and below paras 1483-1484.
[4155] P-3053: CAR-OTP-2130-6359, at 6371, para. 71. P-0547 testified that the [REDACTED] and asked P-0547 to [REDACTED], but he said he could not because his hands were not in a functional state. P-0547 stated that he told the [REDACTED] that he and [REDACTED] were in danger and their lives were in his hands; [REDACTED]: P-0547: T-014, pp. 31-32. *See also* P-0547: T-016, p. 22.
[4156] P-3064: T-074, pp. 40-41.
[4157] The Chamber notes the submissions of the CLRV in this respect: CLRV Closing Brief, ICC-01/14-01/21-1028-Red2, paras 146-147.
[4158] P-3064: T-075, pp. 15-17.
[4159] P-3064: T-075, p. 17.
[4160] P-3064: T-075, p. 16.
[4161] P-3064: T-075, p. 8.

be executed, who were on death row' [REDACTED].[4162] P-3056 testified that images of persons in military attire hunting him down are imprinted in his subconscious and that he feels terrible when these images spring to his mind.[4163] Both P-3064 and P-3056 testified that they had not received any psychological help or treatment following these events.[4164]

l) Incident N

1428. In respect of Incident N, the Chamber considered [REDACTED], together with documentary evidence.

1429. [REDACTED], at the request of General Rakiss, a group of more than 10 OCRB Seleka members, including [REDACTED], arrested an individual whom they called the 'baker' at a residence in Kilometre 5 in Bangui.[4165] The Chamber notes that [REDACTED] was unable to pinpoint the date of the operation at the 'baker's' residence,[4166] but gave evidence that the 'baker' was brought to the OCRB while the Yalo brothers were detained there.[4167] The Chamber notes that the Yalo brothers would have escaped the OCRB on 10 June 2013.[4168] Additionally, the Chamber notes that [REDACTED].[4169] On the basis of this evidence, the Chamber is satisfied that the 'baker's' arrest took place sometime between 6 May and 10 June 2013.

1430. [REDACTED] gave evidence that two 'superiors'—General Rakiss[4170] and Colonel

[4162] P-3056: T-021, pp. 22-23. The Chamber notes the submissions of the CLRV in this respect: CLRV Closing Brief, ICC-01/14-01/21-1028-Red2, paras 145-146.
[4163] P-3056: T-021, pp. 22-23.
[4164] P-3064: T-075, p. 18; P-3056: T-021, pp. 22-23.
[4165] [REDACTED]. With regard to the 'baker's' name, [REDACTED] 'he was undergoing his torture, he must have indicated his job. He lamented that he was just a baker, and it was from there that we understood and [REDACTED] started to call him a baker from then on'.
[4166] [REDACTED].
[4167] [REDACTED]. In its Closing Brief, the Defence submits that the Prosecution initially alleged (in its Trial Brief filed prior to the start of the trial) that this incident occurred on 18 August 2013, only to change the date to June 2013 in its Closing Brief. *See* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 508, Defence Closing Brief, ICC-01/14-01/21-1039-Conf, para. 508. The Chamber notes that the evidence presented at trial, which builds on previously existing evidence, shed further light on when the incident actually took place. In this regard, the Chamber notes that article 74(2) of the Statute provides that the Trial Chamber's decision 'shall be based on its evaluation of the evidence and the entire proceedings' and that the decision 'shall not exceed the facts and circumstances described in the charges'. The Chamber considers that the established date of this incident (*i.e.* June 2013) falls within the temporal scope of the charged crimes, as well as within the facts and circumstances described in the charges. The changing of a date in this instance, which still falls within the relevant temporal scope of this case, did not alter the nature of the allegations themselves, nor prejudice the rights of the accused. [REDACTED]. Accordingly, the Chamber rejects the Defence's argument.
[4168] *See* above para. 1108.
[4169] [REDACTED]. [REDACTED].
[4170] [REDACTED]. [REDACTED] and Benjamin Mallo also identified this individual as Rakiss: [REDACTED], referring to photograph, CAR-OTP-2069-3225 ([REDACTED]); P-0338: T-018, pp. 52-53, referring to photograph, CAR-OTP-2094-1927 (annotated version, CAR-REG-0002-0030).

Mahamat Said[4171]—were also present at the 'baker's' residence and that one of them asked members of the OCRB Seleka to surround the residence.[4172]

1431. [REDACTED] clarified that he was behind the house when the Seleka members surrounded it and did not 'know what actually happened at the front door or inside the house.'[4173] Nonetheless, the Chamber notes that [REDACTED] explained clearly and in detail what he could and could not see and hear regarding what occurred at the front of the residence. Based on his testimony, the Chamber is satisfied that [REDACTED] was able to understand the manner in which this operation unfolded. [REDACTED] testified that one member of the OCRB Seleka knocked on the door of the residence and asked for the 'boy'.[4174] [REDACTED] stated that, 'under pressure' from the Seleka, the boy was presented and the Seleka members put him into a vehicle.[4175] [REDACTED] stated that the 'baker's' arrest occurred without violence[4176] and that the 'baker's' family was informed that he was being taken to the OCRB.[4177]

1432. [REDACTED] the jailer responsible for registering detainees and [REDACTED] noted the 'baker's' name in the log.[4178] [REDACTED], upon arriving at the OCRB, the OCRB Seleka took the 'baker' to the place where he was to be interrogated.[4179] [REDACTED] heard the 'baker' shouting and weeping.[4180] [REDACTED] the 'baker's' hands and ankles were tied together behind his back using the same piece of rope, using the *arbatachar* method.[4181] [REDACTED] the 'baker's' interrogation occurred in a 'very forceful way'[4182] and that he was beaten with ropes, military belts and a whip—or *chicote*—while being interrogated.[4183] [REDACTED] members of the OCRB Seleka 'intervention team' strike the 'baker'[4184] and stated that the 'baker' cried out as he was

[4171] [REDACTED], identifying Mr Said as the clean-shaven person, furthest to the left, wearing full body camouflage gear, marking him with a '1') and CAR-OTP-2069-3227 ([REDACTED], identifying 'Colonel Mahamat Said', [REDACTED]), both of which are photographs of various individuals in camouflage gear and military attire, who are in a line to shake the hand of former CAR President Michel Djotodia.
[4172] [REDACTED]. *See also* [REDACTED]. The Chamber notes the Defence's arguments [REDACTED].
[4173] [REDACTED].
[4174] [REDACTED].
[4175] [REDACTED].
[4176] [REDACTED].
[4177] [REDACTED].
[4178] [REDACTED].
[4179] [REDACTED].
[4180] [REDACTED].
[4181] [REDACTED]. [REDACTED].
[4182] [REDACTED].
[4183] [REDACTED].
[4184] [REDACTED].

being beaten.[4185]

1433. [REDACTED] did not know who gave the order to interrogate the 'baker' because [REDACTED] was not present at that moment,[4186] and [REDACTED] could not establish the specific individuals who were striking him, because it was dark and a streetlight was only partially lighting up the area.[4187] Although [REDACTED] was not able to identify the specific individuals who were beating the 'baker' and [REDACTED] it was 'difficult, really, to unpick what was going on',[4188] the Chamber is satisfied that the details [REDACTED] regarding the mistreatment of the 'baker' are reliable.

1434. [REDACTED] it was difficult to make out the questions that the OCRB Seleka members were asking the 'baker' during the interrogation,[4189] but nonetheless [REDACTED], while the 'baker' was being whipped, 'mention was made of President Bozizé' and his 'inner circle'.[4190] In particular, [REDACTED] the 'baker' was asked questions to the effect of '[w]here can we find the inner circle of Bozizé?'.[4191] [REDACTED], despite 'everything that he was suffering by way of torture, by way of blows', the 'baker' did not answer any of the questions that were put to him, leading [REDACTED] to believe that he did not have information to offer.[4192]

1435. [REDACTED] Mahamat Said and General Rakiss were present during the 'baker's' beating.[4193]

1436. [REDACTED] Nouradine Adam[4194] was also present during the 'baker's' beating but that [REDACTED] could not recall exactly at which point Nouradine Adam arrived or whether he had also played a role in the operation at the 'baker's' residence.[4195] [REDACTED],[4196] [REDACTED] Nouradine Adam had in fact ordered, using the term '*afoursha*', that the 'baker' be hit.[4197] [REDACTED] did not understand the meaning of

[4185] [REDACTED].
[4186] [REDACTED].
[4187] [REDACTED]. [REDACTED].
[4188] [REDACTED].
[4189] [REDACTED].
[4190] [REDACTED].
[4191] [REDACTED].
[4192] [REDACTED].
[4193] [REDACTED].
[4194] [REDACTED].
[4195] [REDACTED].
[4196] [REDACTED].
[4197] [REDACTED]. [REDACTED].

the term '*afoursha*' at the time and explained that it was only afterwards that he found out that it meant to 'beat' or 'hit'.[4198] [REDACTED] elaborated that '*afoursha*' consisted of 'asking for him to be beaten up violently in order to push him into telling the truth'.[4199] In this regard, the Chamber notes the testimony of another witness, P-1762, who testified that he was beaten after a Seleka General named Abdoulaye Hissène told OCRB Seleka members '*Afourchou*', urging them to hit P-1762, which led them to hit P-1762 with their rifle butts while uttering '[w]e will kill you' in Sango.[4200] Based on the presence of Mr Said, General Rakiss, and Nouradine Adam, all of whom occupied various positions of authority over OCRB Seleka, the Chamber is satisfied that the mistreatment and interrogation of the 'baker' occurred at their instruction.

1437. [REDACTED], after the beating, the 'baker' was locked in the underground cell.[4201] The Chamber recalls its factual findings on the conditions in the underground cell.[4202]

1438. [REDACTED] the 'baker's family came to the OCRB the following day, and that he informed a member of the 'baker's' family that he was still alive, but not in good health due to having been whipped.[4203] [REDACTED] a young female member of the 'baker's' family brought some medication, [REDACTED].[4204]

1439. As regards the harm suffered, [REDACTED], the 'baker' 'looked ill' and to be in a 'state of suffering'.[4205] [REDACTED], the 'baker' 'got on his feet to be able to retrieve the medication and the water'.[4206] [REDACTED] '[t]he first day, the second day, the third day [REDACTED] the 'baker' had either been moved to another cell or elsewhere.[4207]

m) Incident O

1440. In respect of Incident O, the Chamber considered the evidence of P-0547 as the sole victim of and witness to the events, as well as the evidence provided by Benjamin Mallo, [REDACTED], P-3053, P-1297, and [REDACTED] as witnesses to the events, together

[4198] [REDACTED].
[4199] [REDACTED].
[4200] P-1762: CAR-OTP-2073-0568, at 0573, para. 28.
[4201] [REDACTED]. *See* P-3112's OCRB Report, CAR-OTP-2062-0743, at 0788; photographs, CAR-OTP-2033-7060, CAR-OTP-2033-7061.
[4202] *See* above para. 910.
[4203] [REDACTED].
[4204] [REDACTED].
[4205] [REDACTED].
[4206] [REDACTED].
[4207] [REDACTED].

with documentary evidence.[4208]

1441. P-0547 testified that he is a male of [REDACTED] ethnicity, who was working as a [REDACTED] and lived in Boy Rabe in August 2013.[4209]

i. Circumstances leading to the detention of P-0547

1442. P-0547 stated that on 21 August 2013,[4210] following the Seleka's operation in Boy Rabe,[4211] he was 'on the brink of leaving' Boy Rabe by foot when two vehicles stopped nearby.[4212] P-0547 recalled that the armed occupants of the vehicles, whom he identified as Seleka members,[4213] asked him for his identification documents, which he provided.[4214] P-0547 stated that the Seleka members questioned him as to whether he was a soldier, using the term '*askar*' in Arabic, in response to which P-0547 said no and explained that he was a [REDACTED].[4215] P-0547 stated that the driver of one of the vehicles asked P-0547 if he was part of the 'military [REDACTED]' and P-0547 reaffirmed that he was not part of the military.[4216] According to P-0547, the Seleka members directed him to get into one of the vehicles and, fearing he would be shot if he

[4208] Photographs, CAR-OTP-2018-0431, CAR-OTP-2033-6907 (annotated version, CAR-REG-0002-0011), CAR-OTP-2018-0445, CAR-OTP-2033-7060 (annotated version, CAR-REG-0002-0009), CAR-OTP-2033-7554, CAR-OTP-2033-7044 (annotated version, CAR-REG-0002-0013), CAR-OTP-2033-6860 (annotated version, CAR-REG-0002-0001), CAR-OTP-2033-6871 (annotated version, CAR-REG-0002-0008), CAR-OTP-2018-0443, CAR-OTP-2118-3740, at 3761 (annotated version, CAR-REG-0002-0012), CAR-OTP-2018-0586 (annotated version, CAR-REG-0002-0002), CAR-OTP-2018-0598 (annotated version, CAR-REG-0002-0003), CAR-OTP-2018-0594 (annotated version, CAR-REG-0002-0004), CAR-OTP-2018-0592 (annotated version, CAR-REG-0002-0005), CAR-OTP-2018-0590 (annotated version, CAR-REG-0002-0006), CAR-OTP-2018-0600 (annotated version, CAR-REG-0002-0007), CAR-OTP-2102-0637, CAR-REG-0002-0016, CAR-OTP-2069-0670, CAR-OTP-2069-0671 (annotated version, CAR-REG-0002-0051), CAR-OTP-2069-2329, CAR-OTP-2069-2506, CAR-OTP-2069-2543, CAR-OTP-2069-2889; medical reports, CAR-OTP-2018-0420, CAR-OTP-2018-0421; sketches, CAR-REG-0002-0014, CAR-OTP-2018-0423 (annotated version, CAR-REG-0002-0015).
[4209] P-0547: T-012, pp. 7-8, 29. *See also* P-0547: T-012, pp. 36-37.
[4210] P-0547: T-012, pp. 29, 46.
[4211] *See* P-0547: T-012, pp. 19-20.
[4212] P-0547: T-012, pp. 36-37, 46.
[4213] P-0547 testified that he believed that the occupants of the vehicles were Seleka members because at the time, no other force was operating or patrolling in the city except for the 'rebel groups'. He also stated that 'when the Seleka came, they were all Muslims. And amongst the people who arrested me, there was not a single Christian. They were all Muslims': P-0547: T-012, pp. 46-47, 49.
[4214] The Chamber notes that P-0547 initially indicated he provided his passport to the Seleka members, and subsequently testified he only had his wallet and his driving licence, which he handed over to the Seleka. The Chamber considers that nothing significant turns on this slight discrepancy: P-0547: T-012, pp. 37-38, 49.
[4215] P-0547: T-012, pp. 37, 46. *See* above para. 1370, noting P-2519's testimony that the Seleka members would use the word '*askar*' when they saw any military person and having regard to the use of this term in other contexts, suggesting a reference to the military.
[4216] P-0547: T-012, pp. 37, 46, 50.

did not do so, P-0547 complied.[4217] P-0547 stated that the Seleka members took him to their base, which he subsequently identified as the OCRB.[4218]

1443. P-0547 stated that Seleka members brought him to 'their base' around 17:00 or 18:00, and 'their leader' slapped him across the face violently and threatened P-0547, telling him, '[y]ou, Bozizé's mercenaries, we are going to kill you one by one, get rid of you'.[4219] P-0547 clarified that the person who gave the instruction for him to be arrested and tortured was Bachar,[4220] noting that '[i]t's Bachar who slapped me'.[4221] The Chamber recalls that P-0547 testified that he only saw Bachar once, during daytime, and at the time of his arrest he did not know the person.[4222] P-0547 stated, however, that when the 'Chadian colonel' subsequently asked P-0547 who had arrested him, a Seleka member told the colonel that it was 'Bachar'.[4223] P-0547 identified a man in a photograph who had a 'strong resemblance' with Bachar.[4224] Having regard to the above, the Chamber is satisfied that P-0547 was able to identify Bachar.

1444. P-0547 testified that about ten Seleka members proceeded to beat him 'everywhere, all over [his] body' with the butts of their rifles, adding that 'in their minds, maybe they thought [he] was a wild animal'.[4225] P-0547 stated that he thought of himself as 'already

[4217] P-0547 clarified that soon after he first got into one of the vehicles, one of the Seleka members said that 'it was a mistake on their part' and released him. However, almost immediately thereafter, when P-0547 was just a few metres away from the vehicle, the same Seleka member called him back and ordered him to get into the vehicle. *See* P-0547: T-012, pp. 37-38, 49-50.
[4218] P-0547: T-012, pp. 36, 38, 50.
[4219] P-0547: T-012, pp. 36, 38, 40, 44, 51, 62; P-0547: T-013, p. 33. The Chamber understands the Seleka base in question to be the OCRB. P-0547 further recalled that he responded that he was a [REDACTED], not a mercenary, but the man who slapped him responded, '[m]aybe you might be a [REDACTED], but military [REDACTED]': P-0547: T-012, p. 36.
[4220] P-0547: T-012, p. 43.
[4221] P-0547: T-012, p. 44.
[4222] P-0547: T-016, pp. 14-15; P-0547: T-013, pp. 73-74, referring to photograph, CAR-OTP-2018-0431. The Chamber notes that P-0547 previously testified that he saw Bachar on one other occasion: P-0547: T-013, p. 42. The Chamber considers this inconsistency to be minor and explainable by the passage of time. The Chamber finds that this discrepancy does not undermine the core of P-0547's evidence.
[4223] P-0547: T-013, p. 35; P-0547: T-016, pp. 14-15. *See also* P-0547: T-013, pp. 73-74, referring to photograph, CAR-OTP-2018-0431.
[4224] P-0547: T-013, pp. 73-74, referring to photograph, CAR-OTP-2018-0431. The Chamber considers that the man in that photograph strongly resembles the person identified by witnesses in other photographs as Bachar: [REDACTED], referring to photograph, CAR-OTP-2069-0671 ([REDACTED]); P-1967: CAR-OTP-2069-0498, at 0545-0546, 0575, 0576-0577, 0579, referring to photographs, CAR-OTP-2069-0670, CAR-OTP-2069-0671, CAR-OTP-2069-2329, CAR-OTP-2069-2506, CAR-OTP-2069-2543, CAR-OTP-2069-2889.
[4225] P-0547: T-012, pp. 36, 40, 44, 51. The Chamber notes P-0547's testimony that on the day he was brought to the Seleka base, apart from being slapped across the face, he was not beaten: P-0547: T-012, p. 36. The Chamber considers this inconsistency to be minor and explainable by the passage of time and the traumatic events P-0547 experienced. Having regard to the totality of the evidence, the Chamber is satisfied that Seleka members beat P-0547 and considers the precise time at which this occurred to be immaterial.

dead', noting that he believed that 'when they talked to you like that, it meant that they certainly would carry out their threat'.[4226] P-0547 testified that [REDACTED] intervened to query what was going on, the Seleka members stopped beating him and P-0547 then relayed the circumstances in which he was apprehended to [REDACTED].[4227]

1445. P-0547 testified that he was permitted to answer two phone calls from his relatives and informed them that he was at the OCRB.[4228] He stated that he was taken to the Seleka's 'post', where a man whom he described as the 'head of the station' registered his information.[4229] P-0547 testified that this Seleka member asked for his name and neighbourhood, and P-0547 responded that he lived in [REDACTED] (and not in Boy Rabe), because it was a 'big danger to say you lived in [Boy Rabe]'.[4230]

1446. P-0547 stated that the Seleka member who was registering P-0547 asked him why he had been stopped.[4231] P-0547 said that the Seleka members 'discussed things amongst each other' in Arabic and ultimately provided a reason (in Arabic) to the person registering P-0547.[4232] P-0547 testified that the Seleka member who registered P-0547 asked him whether he knew the reason he had been taken there and 'gave two names',[4233] to which P-0547 responded that he did not know these people and 'did not recognise these reasons which [had] been put forward against [him]'.[4234]

ii. P-0547's detention in Cell 'G3' at the OCRB

1447. P-0547 testified that he was taken to a cell 'in the middle', between two other cells, which

[4226] P-0547: T-012, p. 36.
[4227] P-0547: T-012, pp. 36-38, 44-45.
[4228] P-0547: T-012, pp. 38, 45, 52. The Chamber notes that P-0547 testified that [REDACTED] confiscated his phone. While the time at which this occurred and the precise sequence of events is unclear, the Chamber is satisfied that P-0547 was able to answer the calls from his family at some point following his arrest. *See* P-0547: T-013, p. 42.
[4229] P-0547 noted that this man seemed to be 'the chief, the leader': P-0547: T-012, pp. 38-39, 52. P-0547 marked the location where the Seleka members registered his information with an arrow in a sketch he drew of the OCRB: P-0547: T-016, pp. 31-32, referring to sketch of OCRB drawn by P-0547 in court, CAR-REG-0002-0014.
[4230] P-0547 stated that he believed that the Seleka accused him of being a colonel in the army just because [REDACTED] in Boy Rabe: P-0547: T-012, pp. 39, 50, 52.
[4231] P-0547: T-012, pp. 38-39, 52.
[4232] P-0547: T-012, pp. 39, 52.
[4233] P-0547: T-012, pp. 39, 52-53.
[4234] P-0547: T-012, pp. 39, 52-53. The Defence argues that P-0547 was informed of the reasons for his arrest when it was logged, namely, an offence that he had allegedly committed with two suspects, whose names he refused to give, and was evasive about the subject when testifying. However, having regard to the totality of the evidence before the Chamber, and noting that it found P-0547's account of the events to be credible and genuine, the Chamber is satisfied that P-0547 was not informed of the charges against him. *Contra* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 317.

he marked in sketches he drew of the OCRB as cell 'G3'.[4235] P-0547 stated that there were 'many, many people in that cell', although he could not give an exact number.[4236] He recalled that everyone inside the cell was on the ground, including wounded people lying down 'who could barely move at all'.[4237] P-0547 stated that he observed people sitting around a bucket which was used for defecation and others urinating in plastic bottles.[4238] P-0547 testified that he could not sleep that night.[4239]

1448. P-0547 stated that amongst the detainees in the cell was a young man who said he was a soldier.[4240] P-0547 recalled that while he was in the cell, a young man whose entire body was covered in blood was also brought into the cell.[4241]

1449. P-0547 stated that while detained in this cell, he observed through a small hole two women being brought to the OCRB in a vehicle.[4242] P-0547 testified that he heard cries from the women and one woman said in French (as far as he understood) '[w]here you come from that's how things are, you are violent towards women, that's how you are'.[4243] P-0547 recalled that the women were screaming and he heard one of the women cry out, 'No, I don't want to. I don't want to do that. I can't'.[4244] He stated that there was another woman who was crying out even louder, 'who was beaten, hit' and that 'after that, there was no sound, no scream'.[4245]

[4235] P-0547: T-012, pp. 39, 51, 53; P-0547: T-013, p. 73, referring to photograph, CAR-OTP-2033-6907 (annotated version, CAR-REG-0002-0011); P-0547: T-016, pp. 29, 32-33, 36, referring to sketch of OCRB drawn and marked by P-0547 in court, CAR-REG-0002-0014, sketch of OCRB drawn by P-0547 in 2015, CAR-OTP-2018-0423 (annotated version, CAR-REG-0002-0015). The Chamber notes the Defence's argument that there are numerous inconsistencies between the two sketches of the OCRB drawn by P-0547: Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 324. The Chamber considers that these inconsistencies are minor and to be expected, noting that P-0547 was drawing from memory, the circumstances in which he made the observations and the passage of time since the events. The Chamber also considers that these discrepancies did not undermine the core of P-0547's evidence. *See* above para. 74. P-0547 identified the first cell in which he was detained: P-0547: T-014, pp. 9-10, referring to photograph of the OCRB, CAR-OTP-2118-3740, at 3761 (annotated version, CAR-REG-0002-0012).
[4236] P-0547: T-012, p. 39.
[4237] P-0547: T-012, pp. 39-40.
[4238] P-0547: T-012, p. 39; P-0547: T-013, p. 73, referring to photograph, CAR-OTP-2033-6907 (annotated version, CAR-REG-0002-0011).
[4239] P-0547: T-012, pp. 40, 53.
[4240] P-0547: T-012, pp. 40-41. When questioned about the identity of people who were detained with him in this cell, P-0547 stated that he met a young person called '[REDACTED]', who said he was the son of [REDACTED]: P-0547: T-016, pp. 16-17. *See* above para. 295, n. 569.
[4241] P-0547: T-012, pp. 41, 53.
[4242] P-0547: T-012, pp. 41, 53.
[4243] P-0547: T-012, p. 41.
[4244] P-0547: T-012, p. 41.
[4245] P-0547: T-012, p. 41.

1450. P-0547 testified that the next morning (22 August 2013),[4246] the Seleka allowed the detainees to leave the cell for 10 to 15 minutes, enabling them to urinate, empty their waste, or have breakfast if their relatives had brought them food.[4247] P-0547 stated that he was visited by [REDACTED], who brought him coffee, bread, cigarettes and money.[4248] P-0547 testified that [REDACTED] said that they would go to see [REDACTED] to explain P-0547's situation, and perhaps the [REDACTED] could intervene and obtain his release.[4249]

1451. P-0547 recalled that at the end of the authorised visiting time, the detainees were taken back to the cells.[4250] According to P-0547, thereafter, Commissioner Mallo, accompanied by a [REDACTED] police officer, opened the cells to gather the people who had recently been arrested and bring them before the prosecutor.[4251] P-0547 testified that when questioned, he stated that he had been arrested the previous evening, in response to which Commissioner Mallo said that he must be freed.[4252] However, according to P-0547, Commander [REDACTED], a Seleka member, said, '[n]ot him. We've got instructions on him. He has to remain in the cell'.[4253] P-0547 testified that he was taken back to the cell.[4254]

1452. The Chamber notes that when P-0547's testimony on the above-mentioned course of events was put to Benjamin Mallo, Benjamin Mallo testified that he did not remember this person, noting that during the period the Seleka were stationed at the OCRB, he did not have the authority to release detainees from the holding cells and bring them before the prosecutor.[4255] However, Benjamin Mallo subsequently noted, 'I would go to the cells when -- in fact, when I called the prosecutor, it's the colonel who opened the cell. Now,

[4246] The Chamber recalls that P-0547 stated he was arrested on or about 21 August 2013, *see* above para. 1443.
[4247] P-0547: T-012, p. 54.
[4248] P-0547: T-012, pp. 54-55.
[4249] P-0547: T-012, p. 54.
[4250] P-0547: T-012, p. 60.
[4251] P-0547: T-012, p. 60; P-0547: T-017, p. 37. P-0547 testified that this sequence of events was consistent with information he had received from another detainee who told him that generally, in the morning, some of the detainees were made to appear before the prosecutor and that, if he was lucky, the prosecutor would free him: P-0547: T-012, p. 60.
[4252] While P-0547 refers to the person who stated that he must be freed simply as 'he', the Chamber draws the conclusion that he was referring to Commissioner Mallo from the context: P-0547: T-012, p. 60; P-0547: T-017, p. 37.
[4253] P-0547 initially referred to the 'people who beat [him] up' making this statement, but subsequently clarified it was [REDACTED] who said this: P-0547: T-012, p. 60; P-0547: T-017, p. 37. *See also* P-0547: T-013, pp. 29, 34; P-0547: T-017, pp. 34-35.
[4254] P-0547: T-012, p. 60; P-0547: T-017, p. 37.
[4255] P-0338: T-019, pp. 46-47.

in order to open the cell and get someone out, you needed Colonel Said's permission.'[4256] Having regard to the ambiguities in Benjamin Mallo's evidence, including with respect to whether he contacted the prosecutor, whether he would go to the cells, and whether Mr Said himself opened the cells, or merely granted permission for the cells to be opened, the Chamber considers that Benjamin Mallo's evidence did not undermine P-0547's account. The Chamber also considered the identity of the persons who attempted to bring P-0547 before the prosecutor or the circumstances of his continued detention in this limited context to be immaterial.

1453. P-0547 testified that in the afternoon, while he was detained in the cell, he observed through the hole in the cell a man arrive in a RAV4 vehicle.[4257] He recalled that all the Seleka members stood to attention, and people greeted him as 'General' and 'His Excellency'.[4258] P-0547 testified that the detainees were looking out through the hole saying, '[h]e's come. He's come' and P-0547 recalled that he asked who it was.[4259] P-0547 testified that 'it was Nouradine'.[4260] P-0547 stated that the man whom he identified as Nouradine was far away from him, but that he was walking slowly, had a slight limp and was using a walking stick.[4261] P-0547 testified that Nouradine Adam talked to people and left in his vehicle shortly thereafter.[4262] While P-0547 testified that this was the only occasion on which he saw Nouradine Adam,[4263] the Chamber considers that P-0547's description of Nouradine Adam is consistent with other evidence and notes that P-0547 was able to positively identify Nouradine Adam in a photograph.[4264]

1454. P-0547 testified that a while later, he was removed from his cell and taken to the location

[4256] P-0338: T-019, pp. 47-48.
[4257] P-0547: T-012, pp. 61-62; P-0547: T-014, p. 29.
[4258] P-0547: T-012, p. 61.
[4259] P-0547: T-012, p. 61.
[4260] P-0547: T-012, p. 61. Elsewhere P-0547 confirmed that the full name of Nouradine was Nouradine Adam: P-0547: T-012, p. 24.
[4261] P-0547: T-012, p. 61.
[4262] P-0547: T-012, pp. 61-62.
[4263] P-0547: T-016, p. 15. The Chamber observes that P-0547 testified that one of the men with whom P-0547 was detained in the underground cell, named [REDACTED], told P-0547 that Nouradine Adam subsequently visited the OCRB when P-0547 was detained in the underground cell and gave instructions that P-0547 should be killed and thrown into the water. However, noting the vague and hearsay nature of this uncorroborated evidence, the Chamber does not rely on it. *See* P-0547: T-013, pp. 36-38.
[4264] P-0547: T-014, pp. 28-29, referring to photograph, CAR-OTP-2018-0445. *See*, *for example*, [REDACTED], identifying Nouradine Adam in photographs, CAR-OTP-2074-0967 ([REDACTED]), CAR-OTP-2074-0899 ([REDACTED]); [REDACTED], identifying Nouradine Adam in photograph, CAR-OTP-2069-2452 ([REDACTED]); [REDACTED], identifying Nouradine Adam in photograph, CAR-OTP-2069-1990 ([REDACTED]).

where he had been registered the prior evening.[4265] P-0547 testified that a different officer from the one who had previously registered him asked P-0547 for his name.[4266] P-0547 noted that 'the other head of station' asked him when he was brought to the OCRB, in response to which he indicated the previous evening.[4267] P-0547 stated that the other head of station found his name [REDACTED].[4268]

iii. P-0547's transfer to the underground cell

1455. P-0547 testified that he was taken to a hole that was covered in planks and was told to get into the hole.[4269] He recalled that Mr Said's office was 'just next to it'.[4270] P-0547 stated that the hole 'was like a cellar that was used in colonial times', and recalled that 'the stench was unbearable'.[4271] P-0547 noted that there was a candle in the hole.[4272]

iv. Other detainees held in the underground cell

1456. P-0547 gave evidence that several other individuals were detained with him in the hole for varying periods of time.[4273] P-0547 stated that when he first entered the hole (on or about 22 August 2013),[4274] he saw two people inside it.[4275] P-0547 testified that one of these detainees told P-0547 that he was [REDACTED] and came from a village rather close to P-0547's village.[4276] P-0547 subsequently referred to his fellow detainee as '[REDACTED]'.[4277] The Chamber recalls that P-3053 was known by the name of

[4265] P-0547: T-012, p. 62.
[4266] P-0547: T-012, p. 62.
[4267] P-0547: T-012, p. 62.
[4268] P-0547: T-012, p. 62.
[4269] P-0547: T-012, p. 62; P-0547: T-013, pp. 71, 76, referring to photographs, CAR-OTP-2033-7060 (annotated version, CAR-REG-0002-0009), CAR-OTP-2033-7554.
[4270] P-0547: T-013: pp. 13, 71, referring to photograph, CAR-OTP-2033-7060 (annotated version, CAR-REG-0002-0009). *See also* P-0547: T-014, pp. 10-11, referring to photograph, CAR-OTP-2033-7044 (annotated version, CAR-REG-0002-0013).
[4271] P-0547: T-013, p. 4.
[4272] P-0547: T-013, p. 4.
[4273] The Chamber notes that P-0547's recollection of the chronology and duration of the detention of other individuals in the underground cell is somewhat vague. The Chamber considers that this is understandable given the conditions of detention and the mistreatment to which P-0547 was subjected and that it does not impact the credibility of his account. In this regard, the Chamber has assessed P-0547's evidence with respect to the individuals with whom P-0547 was detained in the underground cell collectively, rather than chronologically, and has exercised caution in attributing any specific time period to his evidence on this subject. *See also* above paras 269-271.
[4274] The Chamber recalls that P-0547 testified he was apprehended on or about 21 August 2013 and was detained in a cell for one night before being taken to the underground cell the following day: *see* above paras 1443, 1448, 1451, 1456.
[4275] P-0547: T-012, pp. 62-63; P-0547: T-013, pp. 3-4.
[4276] P-0547: T-013, p. 3.
[4277] *See, for example*, P-0547: T-013, pp. 15, 17; P-0547: T-014, pp. 25, 31; P-0547: T-016, p. 17.

[REDACTED].[4278] P-3053 remembered a fellow detainee who went by P-0547's name, who worked as a [REDACTED] and was severely beaten, which the Chamber understands to be a reference to P-0547.[4279] Having regard to the overall consistency of the evidence of P-3053 and P-0547, as analysed further below, the Chamber is satisfied that they were detained in the underground cell during the same time period.[4280]

1457. P-0547 stated that when he first entered the hole, P-3053 told him that the other detainee who was lying on the floor was dead.[4281] P-0547 recalled that (on or about [REDACTED])[4282] a person was pulled out from the hole by a rope attached to his feet.[4283] Noting that P-0547 recalled that there were only two other detainees in the cell at this time, the Chamber considers that the person removed from the cell was the deceased detainee.

1458. P-0547 recalled several other people were detained in the hole with him at various points in time, including a short boy from Burundi[4284] and at least one other detainee, named [REDACTED].[4285] He also referred to a Koranic school teacher named [REDACTED] as one of his 'inmates', but noted that he slept in the room above the hole.[4286]

v. Mistreatment of P-0547

1459. P-0547 testified that at about 17:30 or 18:00, he was ordered to get out of the 'room' and remove his shirt and trousers, which he did.[4287] P-0547 stated that he was led towards the toilets and was directed to stand behind a small area not used for anything, where he was

[4278] *See* above para. 1386, n. 4042.
[4279] P-3053: CAR-OTP-2130-6359, at 6367, para. 47.
[4280] Having regard to the inconsistencies in P-3056's, P-3064's and P-0547's evidence, the Chamber is unable to establish that P-0547 was detained in the underground cell at the same time as P-3056 and P-3064. *See* above paras 1456-1457 (Incident O) and 1413 (Incident M).
[4281] P-0547: T-012, p. 63; P-0547: T-013, pp. 3-4.
[4282] P-0547 places the removal of this person from the cell on or about the morning after he was tied using the *arbatachar* method: P-0547: T-013, pp. 7-9. *See* above para. 1457 and below para. 1460.
[4283] P-0547: T-013, p. 9.
[4284] P-0547 recalled that '[t]hey' took the young man away and he never came back: P-0547: T-013, p. 15.
[4285] P-0547 testified that he was detained in the underground cell with a Muslim cattle trader and also referred to a fellow detainee named [REDACTED]. The Chamber is unable to conclusively determine on the basis of the witness's evidence whether this is the same person. *See* P-0547: T-013, pp. 16, 18-19, 35-37, 41; P-0547: T-016, pp. 17-20.
[4286] P-0547 further noted, 'we were down and he was up': P-0547: T-013, pp. 17, 31, 42, 71, referring to photograph, CAR-OTP-2033-7060 (annotated version, CAR-REG-0002-0009); P-0547: T-016, p. 17.
[4287] P-0547: T-013, pp. 4, 7. The Chamber notes that medical reports, signed by [REDACTED], neurologist, which P-0547 testified he obtained after his release from the OCRB and provided to investigators, record that P-0547 was tortured on [REDACTED] August 2013 at around 18:00: P-0547: T-013, pp. 60-61, 63-67, referring to medical reports, CAR-OTP-2018-0420, CAR-OTP-2111-0086 (clearer version, CAR-OTP-2018-0421).

told, '[s]ince you don't want to tell us who your accomplice is, go and stand there and you will see what's going to happen'.[4288] He recalled that two people hit him on the back of his leg with a rifle butt and he fell down.[4289] P-0547 stated that 'there were so many of them' and recalled that one of them kicked him in the back, after which 'they' tied him with a rope using the *arbatachar* method, drawing his elbows in and pulling his right leg behind him until it touched his elbows.[4290] P-0547 stated that '[i]t was just like taking cattle to slaughter'.[4291] He testified that he was hung and beaten, noting that although he did not know precisely what instruments were used to beat him, he saw rifle butts and recalled being kicked and hit with a stick and a rope.[4292] P-0547 stated that he wondered 'if they were animals or humans, because a human being could not act like that'.[4293]

1460. P-0547 stated that the 'torturer' cocked his Kalashnikov and pointed it to P-0547's head.[4294] P-0547 testified that he told the 'torturer' that he had not done anything to deserve death and begged him not to shoot, saying that he had young children.[4295] According to P-0547, thereafter, the 'torturer' ordered the group to beat him and said that since P-0547 did not want to reveal the names of his accomplices, they would 'show him'.[4296]

1461. P-0547 testified that 'they' hung him close to the barbed wire on the wall separating MOOV and the OCRB to the left of the cellblock.[4297] He stated that his 'torturers' encircled him; some hit him with their rifle butts and some pushed him against the wall, which caused him to sustain injuries on his body.[4298] P-0547 stated that one person took out a knife and wanted to slit his throat, but his 'torturer' pushed the man away and said he was not going to kill him immediately but would kill him slowly.[4299] P-0547 testified

[4288] P-0547: T-013, pp. 4-5. *See also* P-0547: T-013, pp. 23, 26-28, referring to photograph, CAR-OTP-2033-6860 (annotated version, CAR-REG-0002-0001).
[4289] P-0547: T-013, p. 5.
[4290] P-0547: T-013, pp. 5, 29.
[4291] P-0547: T-013, pp. 5, 29.
[4292] P-0547: T-013, p. 5; P-0547: T-014, p. 21.
[4293] P-0547: T-013, p. 5.
[4294] P-0547: T-013, p. 5.
[4295] P-0547: T-013, p. 5.
[4296] P-0547: T-013, pp. 5-6.
[4297] P-0547 testified that his 'torturer' said that he had to hang P-0547 from a fork-shaped pole on a wall with barbed wire: P-0547: T-013, pp. 6-7, 23, 28, referring to photograph, CAR-OTP-2033-6860 (annotated version, CAR-REG-0002-0001), marked with the numbers '0' and '1'.
[4298] P-0547: T-013, pp. 7, 28.
[4299] P-0547: T-013, pp. 6-7.

that they beat him 'like savages' from 18:00 to 21:00.[4300] P-0547 recalled that he felt that he was dying and no longer had any breath in him and noted that he had wounds all over his body, including on his arms and back.[4301]

1462. P-0547 testified that [REDACTED][4302] was angry and asked for him to be untied.[4303] P-0547 stated that 'the chief' ordered that P-0547 be untied.[4304] P-0547 clarified that 'the leader, the chief' who issued the order and who was present while he was tied using the *arbatachar* method was a Seleka member, [REDACTED], whom he described as one of his torturers.[4305] He subsequently noted that [REDACTED] and [REDACTED] always worked in a team of two, and recalled that [REDACTED] beat him with a rope when he was being tortured.[4306] P-0547 testified that he could not recall whether Commander Said was present when he was tied using the *arbatachar* method, as he did not know him at the time.[4307]

1463. P-0547 testified that he was eventually untied but could not get up.[4308] P-0547 stated that the 'torturer' ordered that P-0547 be removed and he was dragged to the hole and kicked into it.[4309]

1464. P-3053, a fellow detainee, gave evidence that the Seleka members tied P-0547's elbows behind his back using the *arbatachar* method.[4310] P-3053 testified that at or around 17:00, when he was outside, he observed five Seleka members beating P-0547 in front of the

[4300] P-0547: T-013, p. 6. P-1297, [REDACTED], testified that P-0547 relayed to P-1297 in 2013 that he had been kidnapped and 'tortured' at the OCRB: P-1297: CAR-OTP-2039-0167, at 0176, para. 58.
[4301] P-0547: T-013, pp. 6, 22. The Chamber recalls that P-0547 testified that he provided investigators with a copy of his medical certificates, one of which was dated [REDACTED] September 2013 and indicated that P-0547 was tortured on [REDACTED] August 2013: P-0547: T-013, pp. 60-61, 63-67, referring to medical reports, CAR-OTP-2018-0420, CAR-OTP-2111-0086 (clearer version, CAR-OTP-2018-0421).
[4302] P-0547 noted that [REDACTED] was detained at the OCRB because he was suspected of [REDACTED]. P-0547 stated that [REDACTED] was very nice to him and recalled that he told P-0547 that after the rebellion, people were behaving very badly towards the population and he did not agree to that: P-0547: T-013, pp. 30-31.
[4303] P-0547: T-013, p. 7; P-0547: T-017, pp. 34-35.
[4304] P-0547: T-013, p. 7; P-0547: T-017, pp. 34-35.
[4305] P-0547: T-013, pp. 29, 34; P-0547: T-017, pp. 34-35. *See also* P-0547: T-014, pp. 20-21.
[4306] P-0547: T-014, pp. 9, 21.
[4307] P-0547: T-013, pp. 32-33.
[4308] P-0547: T-013, p. 7; P-0547: T-017, pp. 34-35.
[4309] P-0547: T-013, p. 7.
[4310] P-3053: CAR-OTP-2130-6359, at 6367, para. 47. The Chamber notes that [REDACTED], a *Chef de Quartier*, also gave evidence, based on information [REDACTED] had received, that P-0547 was arrested, detained and tied up using the *arbatachar* method. While [REDACTED] referred to P-0547 being tied up 'at the presidency' and made no reference to the OCRB, noting [REDACTED] account is second-hand, the Chamber does not consider that this undermines the otherwise credible and consistent accounts of P-0547 and P-3053 with respect to P-0547's detention and mistreatment at the OCRB. *See* [REDACTED], *contra* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 519, Defence Closing Brief, ICC-01/14-01/21-1039-Conf, para. 519.

building where the cells were located.[4311] P-3053 stated that the Seleka members beat P-0547 so badly that he could not move his hands.[4312]

vi. Continued detention of P-0547 in the underground cell

1465. P-0547 gave evidence that he lost the use of his hands, which were 'almost paralysed', and recalled that a fellow detainee helped him to sit.[4313] He stated that he felt as if water was coming out of his entire body.[4314] P-0547 testified that the detainee gave him a small quantity of water from a bottle[4315] and recalled that each time he wanted to urinate, his fellow detainee helped him to remove his trousers and undergarments.[4316] P-0547 stated that he refused to eat because of his situation, noting he could hardly move and did not know who would escort him to the toilets.[4317] He testified that his wounds started developing gangrene.[4318]

1466. P-0547 testified that at some stage, Seleka members undressed him and massaged his injured limbs with his undergarments soaked in warm water.[4319] He recalled that he was given clean clothing and anti-inflammatory medicines.[4320]

1467. P-0547 gave evidence that he and his fellow detainees were permitted to leave the hole on a number of occasions, noting that family members visited him in the OCRB compound and brought him clothes and medicine.[4321] P-3053 also recalled that P-0547's [REDACTED] brought him medicine because there was pus on his wounds.[4322]

1468. P-0547 stated that on one occasion, [REDACTED] allowed [REDACTED].[4323] P-0547 recalled that [REDACTED] tore away some of P-0547's skin while removing his clothes.[4324] P-0547 testified that the Seleka members threatened [REDACTED] that they

[4311] P-3053: CAR-OTP-2130-6359, at 6367, para. 47. While P-3053 referred to the involvement of Mr Said and Yaya in the beating, the Chamber recalls its finding that P-3053's identification of Mr Said and of Yaya was inaccurate and does not rely on his evidence regarding their activities: *see* above paras 257-260.
[4312] P-3053: CAR-OTP-2130-6359, at 6367, para. 47.
[4313] P-0547: T-013, pp. 7-8, 17.
[4314] P-0547: T-013, p. 8.
[4315] P-0547: T-013, p. 8.
[4316] P-0547: T-013, p. 14.
[4317] P-0547: T-013, p. 14.
[4318] P-0547: T-013, p. 21.
[4319] P-0547: T-013, pp. 10-11.
[4320] P-0547: T-013, p. 11.
[4321] P-0547: T-013, pp. 11-15, 19-21, 37-40.
[4322] P-3053: CAR-OTP-2130-6359, at 6367, para. 47.
[4323] *See, for example*, P-0547: T-013, pp. 38-41; *See also* P-0547: T-013, pp. 69-71, referring to photograph, CAR-OTP-2033-6871 (annotated version, CAR-REG-0002-0008).
[4324] P-0547: T-013, pp. 40, 54. *See also* P-0547: T-013, p. 55.

would take revenge on P-0547 if he were to talk about P-0547's wounds.[4325] P-0547 stated that Commander Said was talking to someone in the OCRB compound when he saw [REDACTED] visiting and said to them, 'You there, what are you doing there?'[4326] P-0547 testified that he and [REDACTED] indicated that [REDACTED] was there to [REDACTED] P-0547, after which Commander Said withdrew to continue his discussion with the other person.[4327] P-0547 recalled that he told [REDACTED] that it was dangerous to stay there and that he should go home.[4328]

1469. P-0547 recalled another occasion when he asked one of the colleagues of his 'torturer' whether they could leave the hole for a drink, in response to which the man said, '[s]ince Said, the head Said is not there, you can go out'.[4329] P-0547 testified that he and several of his fellow detainees were permitted to leave the hole and to take medicines.[4330] P-0547 testified that Commander Said then entered the room, asked who had let them out, and ordered for them to be returned to the hole 'as if [they] were animals'.[4331] P-0547 stated that they were escorted back to the hole and recalled that when one of the detainees resisted, Commander Said told him that if he continued this way, he would be escorted somewhere else.[4332]

1470. As to P-0547's identification of Mr Said, the Chamber observes that P-0547 testified that he did not know Mr Said when he arrived at the OCRB and when he was being 'tortured'.[4333] He stated that he became aware of Mr Said's identity and position when he (Said) came to see the detainees, at which time P-0547 asked who he was and was told that he was the commander of the OCRB.[4334]

vii. Interrogation of P-0547

1471. P-0547 stated that he was taken from the hole at some stage and was brought before

[4325] P-0547: T-013, p. 40.
[4326] P-0547: T-013, pp. 39-40, 69-71, referring to photograph, CAR-OTP-2033-6871 (annotated version, CAR-REG-0002-0008).
[4327] P-0547: T-013, pp. 39-40, 69-71, referring to photograph, CAR-OTP-2033-6871 (annotated version, CAR-REG-0002-0008).
[4328] P-0547: T-013, p. 40.
[4329] P-0547: T-013, p. 17.
[4330] P-0547: T-013, pp. 17-18; P-0547: T-016, pp. 17-20.
[4331] P-0547: T-013, p. 18; P-0547: T-016, pp. 18-19.
[4332] P-0547: T-013, pp. 18-19; P-0547: T-016, pp. 17-20.
[4333] P-0547: T-013, p. 33.
[4334] P-0547: T-013, p. 33. *See also* P-0547: T-012, p. 56.

members of the Seleka, including [REDACTED].[4335] P-0547 subsequently testified that he thought '[t]here were four of them', but also noted that on that day he saw a man called [REDACTED] and made reference to another called [REDACTED].[4336] P-0547 testified that [REDACTED] entered at some point and gave a Seleka member P-0547's telephone.[4337] P-0547 testified that he was asked who had done 'all this' to him and [REDACTED] admitted that he had done it on the instructions of someone else, noting he had only been following orders.[4338] P-0547 gave evidence that a man (who a fellow detainee told P-0547 was [REDACTED]) gave instructions that he (P-0547) should not be mistreated.[4339] P-0547 testified that he was accused of calling *Radio France International* often and was questioned about his links to 'political individuals' in the country, particularly [REDACTED].[4340] P-0547 testified that he told them that the [REDACTED] was [REDACTED], that he knew [REDACTED] and that the allegation relating to *Radio France International* was true.[4341] P-0547 recalled that they played an audio of him speaking to [REDACTED] on *Radio France International*, whom he referred to as [REDACTED], noting that when an event happened [REDACTED] usually phoned him to ask for further information.[4342] P-0547 stated that after listening to the audio, they questioned why he did not speak positively about the Seleka and accused him of being an intellectual.[4343] He testified that following internal discussions, [REDACTED] told P-0547 that the authorities wanted to see him.[4344]

1472. P-3053 also gave evidence that the Seleka accused P-0547 of being in contact with [REDACTED].[4345] There is evidence that [REDACTED] was a member of François Bozizé's political party and [REDACTED] against the Seleka in Bangui at the end of 2012 and beginning of 2013.[4346]

viii. P-0547's temporary transfer to Camp de Roux

[4335] P-0547: T-013, pp. 41-43.
[4336] P-0547: T-013, pp. 41-43.
[4337] P-0547: T-013, p. 42.
[4338] P-0547: T-013, p. 41. *See also* P-0547: T-014, pp. 21, 27.
[4339] P-0547: T-013, pp. 41-42.
[4340] P-0547: T-013, pp. 42-44.
[4341] P-0547: T-013, p. 42. As to P-0547's relationship with [REDACTED], *see* P-0547: T-014, pp. 64-70.
[4342] P-0547: T-013, pp. 42-44.
[4343] P-0547: T-013, pp. 43-44.
[4344] P-0547: T-013, p. 44.
[4345] P-3053: CAR-OTP-2130-6359, at 6367, para. 47.
[4346] P-0884: prior recorded testimony given in the *Yekatom and Ngaïssona* case, ICC-01/14-01/18-T-054-Red2-ENG, pp. 33-36. *See also* above para. [REDACTED].

1473. P-0547 testified that [REDACTED] and [REDACTED] told him that they were going to bring him before 'the head'.[4347] He gave evidence that one afternoon, at or around [REDACTED], [REDACTED] and [REDACTED], accompanied by five other people, transported P-0547 in a vehicle to Camp de Roux.[4348] P-0547 testified that there were many Seleka members and he saw people kneeling in a row in the courtyard before a man in a chair, whom P-0547 identified as Michel Djotodia.[4349] P-0547 testified that as he had problems walking, he was assisted, and [REDACTED] explained that he (P-0547) could not kneel down because his legs were paralysed.[4350] P-0547 recalled that Michel Djotodia[4351] was questioning a young boy whose hands were tied behind his back about his ethnicity.[4352] P-0547 stated that when the boy indicated that he was a [REDACTED] from [REDACTED], Michel Djotodia said, '[s]o you're the one with Bozizé […]' and hit him with a *massette*.[4353] P-0547 testified that 'they' put the boy into a big sack and continued to beat him with their rifle butts.[4354]

1474. P-0547 testified that [REDACTED] and [REDACTED] drove him back to the OCRB that day.[4355] He recalled that during the journey, [REDACTED].[4356]

ix. Visit by French soldiers at the OCRB

1475. P-0547 testified that, at some point, [REDACTED] and brought him to the Director General of the OCRB, whom he identified as Commissioner Benjamin Mallo.[4357] P-0547 testified that [REDACTED] French soldiers then went into Benjamin Mallo's office while P-0547 was there and took a photograph of him.[4358]

1476. Benjamin Mallo testified that he asked Mr Said several times whether he could see the detainees in the 'basement', but Mr Said told him that it was out of the question because

[4347] P-0547: T-014, p. 29.
[4348] P-0547: T-013, p. 44; P-0547: T-014, pp. 15-16, 29-30.
[4349] P-0547: T-014, pp. 16, 19, 26-27, 29, referring to photograph, CAR-OTP-2018-0443.
[4350] P-0547: T-014, pp. 16-17.
[4351] *See* P-0547: T-014, pp. 16, 19, 26-27, 29, referring to photograph, CAR-OTP-2018-0443.
[4352] P-0547: T-014, pp. 16-18.
[4353] A *massette* is a sledgehammer. P-0547: T-014, pp. 17-18, 26-27, 29, referring to photograph, CAR-OTP-2018-0443.
[4354] P-0547: T-014, p. 18.
[4355] P-0547: T-014, pp. 19-20.
[4356] P-0547: T-014, pp. 20-21.
[4357] P-0547: T-013, pp. 33-34; P-0547: T-017, p. 33. P-0547 marked the path that he testified he took to the Director-General's office, located at the front left of the building if looking at it from the front entrance of the OCRB: P-0547: T-016, pp. 32, 34, 36, referring to sketch of the OCRB drawn by P-0547 in 2015, CAR-OTP-2018-0423 (annotated version, CAR-REG-0002-0015).
[4358] P-0547: T-013, pp. 33-34.

'he may have serious problems with his hierarchy; Nouradine and Djotodia'.[4359] Benjamin Mallo recalled that Mr Said eventually agreed to bring one of the detainees to Benjamin Mallo's office, without the knowledge of 'his elements'.[4360] Benjamin Mallo identified P-0547 in a photograph as the detainee in question.[4361] Benjamin Mallo testified that he called in a partner from the French delegation to covertly take photographs of the detainee.[4362] Benjamin Mallo recalled that the detainee, who wore only his underwear and whose limbs were tied, had been tortured, had injuries 'everywhere on the body' and found it difficult to speak.[4363] Benjamin Mallo noted that the detainee was burnt with hot water or cigarettes and was beyond the point of recognition.[4364] He testified that the detainee looked 'disgusting' and to see him was 'too much', recalling that he 'didn't have the words to express it' and 'felt revolt automatically when [he] saw how this brother had been mistreated'.[4365] Benjamin Mallo testified that he did not know who had done this to the detainee and he did not dare ask for fear of repercussions.[4366]

1477. [REDACTED], a [REDACTED], gave evidence that in August 2013 he [REDACTED], who had wounds on his forearms and back and heavy marks from being bound at the joint of his elbows and forearms.[4367] [REDACTED] identified P-0547 in a photograph as the man [REDACTED].[4368] [REDACTED] testified that [REDACTED] told him that the man had 'obviously been tortured by the Séléka' and could no longer use his arms as he had been so tightly bound.[4369]

1478. P-0547 stated that as he was led back to his cell, he observed Commander Said talking to [REDACTED], while a man was being beaten and doused with water '[t]o such an extent that the man emptied his bowels'.[4370] P-0547 stated that [REDACTED] remarked

[4359] P-0338: T-018, pp. 13-15. The Chamber notes that Benjamin Mallo testified that this encounter with Mr Said took place in April, which is inconsistent with P-0547's testimony placing the subsequent events in August 2013. Having regard to the overall consistency of Benjamin Mallo's and P-0547's evidence, and recalling the passage of time since the events, the Chamber considers this discrepancy to be immaterial. *See* P-0338: T-018, pp. 13-14. *See also* above para. 93.
[4360] P-0338: T-018, p. 15.
[4361] P-0338: T-018, pp. 46-47, referring to photograph, CAR-OTP-2018-0598.
[4362] P-0338: T-018, pp. 15-16.
[4363] P-0338: T-018, pp. 15-16.
[4364] P-0338: T-018, p. 16.
[4365] P-0338: T-018, pp. 16, 47; P-0338: T-019, p. 73.
[4366] P-0338: T-018, pp. 16-17.
[4367] [REDACTED]. *See also* [REDACTED].
[4368] [REDACTED].
[4369] [REDACTED].
[4370] P-0547: T-013, pp. 35-36.

on the scene and instructed them to hit him even harder.[4371]

1479. The Chamber notes that there are some inconsistencies in the accounts provided by P-0547 and Benjamin Mallo, notably with respect to the identity of the person who brought P-0547 to Commissioner Mallo's office. Having regard to the evidence before it, the Chamber is satisfied that P-0547 was brought to Benjamin Mallo's office, where [REDACTED] French soldier took photographs of P-0547, and that Mr Said was present when a man was beaten and doused with water in the OCRB compound until he defecated on himself.

x. P-0547's detention in a container

1480. P-0547 testified that sometime after about 18:00 the evening before his release, 'other people'[4372] opened the door to his cell, placed a black bag over his head and led him to a vehicle.[4373] P-0547 stated that they drove around in the vehicle for 'a long time' before entering what he thought was a compound.[4374] P-0547 recalled that he was put inside a dark space, which he concluded was a container, where another detainee named '[REDACTED]' was being held.[4375] After approximately 45 minutes to one hour, he was removed from the container, placed in a vehicle and driven around for a long time before being returned to his cell at the OCRB.[4376]

1481. P-0547 testified that the morning following his return, P-3053 was released from the hole.[4377]

xi. Escape of P-0547 and P-3053 from the OCRB

1482. Benjamin Mallo testified that one afternoon Nouradine Adam and his close collaborators

[4371] P-0547: T-013, p. 36. The Defence asserted that it was [REDACTED], who gave the order to continue the beating of the man: Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 628, Defence Closing Brief, ICC-01/14-01/21-1039-Conf, para. 628. The Chamber notes the initial discrepancies between the French and the English transcripts in this respect, as well as the corrections thereof. The Chamber considers that the witness's testimony is unambiguous that both Mr Said and [REDACTED] were present when the man was being beaten '[t]o such an extent that [he] emptied his bowels', following which [REDACTED], in Mr Said's presence, told the Seleka members to beat the man even harder.
[4372] P-0547 testified that he initially thought it was Seleka members who were coming and going, as they usually did, but concluded that they were 'other people', noting that he did not know any of them and did not recognise their voices, but felt that they were armed: P-0547: T-014, pp. 23-24.
[4373] P-0547: T-014, pp. 22-24.
[4374] P-0547: T-014, p. 24.
[4375] P-0547: T-014, p. 24.
[4376] P-0547: T-014, pp. 23-24.
[4377] P-0547: T-014, p. 25.

visited the OCRB and spoke to Mr Said in a dialect, and that it transpired from the conversation that 'we had to do away with these people because they had stayed for a very long time', which Benjamin Mallo understood to mean to 'eliminate everyone who was there'.[4378] Benjamin Mallo gave evidence that he called Prosecutor Tolmo the next day and summoned him to the OCRB, asking him to put all of the detainees in the same cell.[4379] According to Benjamin Mallo, Prosecutor Tolmo subsequently freed all of the underage detainees and convinced Colonel Said to put all the remaining detainees in the same cell.[4380] Benjamin Mallo recalled that, in the evening when the Seleka members had departed from the OCRB for the mosque, Benjamin Mallo carried out his plan to release the detainees by removing himself from the OCRB and calling one of his subordinates who remained there to signal to him to open the cell and tell the detainees to leave towards the river.[4381] Benjamin Mallo testified that this was very dangerous and could cost them their lives.[4382]

1483. P-0547 testified that he was released from the OCRB on 31 August 2013, which he recalled coincided with a ceremony at the OCRB attended by Minister Binoua, Prime Minister Tiangaye and the Mayor of Bimbo.[4383] P-0547 stated that prior to the OCRB closure ceremony, attended by Minister Josué Binoua, Prime Minister Tiangaye and Mayor of Bimbo, he and his fellow detainees were moved to the cell 'just near the pick-up car', in the same building as the G3 cell, where the ceremony was organised.[4384] P-0547 stated that [REDACTED] passed the cell and instructed that P-0547 be freed.[4385] P-0547

[4378] P-0338: T-018, pp. 17, 20-21.
[4379] P-0338: T-018, pp. 17-18.
[4380] P-0338: T-018, pp. 18, 22-23. Benjamin Mallo testified that the detainees put in one cell were young Christian males from non-Muslim areas of Bangui arrested for participating in anti-Seleka demonstrations: P-0338: T-018, pp. 24-26.
[4381] P-0338: T-018, pp. 18-19, 23-24.
[4382] P-0338: T-018, p. 19. *See also* P-0338: T-018, p. 18.
[4383] P-0547: T-014, p. 30; P-0547: T-016, pp. 21-23. P-0547 testified that he was released from the OCRB on 31 August 2013, 'when Binoua and the prime minister came [and] [t]here was also the mayor of Bimbo'. P-0547 subsequently clarified that Josué Binoua and other authorities attended a ceremony held at the OCRB. Having regard to the totality of the evidence, the Chamber is satisfied that the ceremony referenced by P-0547 is the OCRB closing ceremony held on 30 August 2013. Noting that P-0547 testified that he was released 'during the night' and that P-3053 likewise testified that they were released on 31 August 2013, the Chamber finds that P-0547 escaped in or around the early hours of 31 August 2013: P-0547: T-014, pp. 30-31; P-3053: CAR-OTP-2130-6359, at 6371, para. 71. The Chamber notes its finding that this ceremony took place on 30 August 2013. *See* above para. 620.
[4384] P-0547: T-014, p. 30; P-0547: T-014-FR, p. 30; P-0547: T-016, p. 29, referring to sketch of OCRB drawn by P-0547 in court, CAR-REG-0002-0014.
[4385] P-0547: T-014, pp. 30-31; P-0547: T-016, p. 21. P-0547 recalled that at the time of his release, there was an order in force which had dismissed the Director-General of the OCRB, Commissioner Mallo and the public prosecutor and believed that the decision to have him released was made by [REDACTED]: P-0547: T-013, p. 59.

recalled that at night, a policeman opened the cell and released P-0547 and one other person (P-3053).[4386] P-0547 testified that he and this person (P-3053) subsequently escaped from the OCRB [REDACTED].[4387]

1484. P-3053 gave consistent evidence that he and P-0547 were moved to a cell in the OCRB courtyard towards the end of August 2013, prior to Prime Minister Tiangaye's visit to the OCRB.[4388] He stated that he and P-0547 subsequently escaped from the OCRB [REDACTED] with the assistance of OCRB police officers and officials.[4389]

xii. Harm suffered

1485. As regards the harm P-0547 suffered as a result of his detention at the OCRB,[4390] P-0547 gave evidence that when he was released from the OCRB, he had wounds and scars on his body.[4391] P-0547 testified that he could not lift up his arms and lost the use of his hands, which were 'almost paralysed', [REDACTED] following his escape from the OCRB.[4392] P-0547 recalled that after his escape from the OCRB, he received medical treatment for the injuries he had sustained at the OCRB, including [REDACTED].[4393]

1486. P-0547 stated that he continues to suffer from headaches, insomnia, hypertension and

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[4386] P-0547: T-014, pp. 30-31.
[4387] P-0547: T-014, pp. 31-32.
[4388] P-3053: CAR-OTP-2130-6359, at 6369-6370, paras 67-68.
[4389] P-3053 attributed the release to the newly appointed 'OCRB Director', who was appointed at the same time as the Prime Minister: P-3053: CAR-OTP-2130-6359, at 6370, paras 69, 71.
[4390] The Chamber notes the submissions of the CLRV in this respect: CLRV Closing Brief, ICC-01/14-01/21-1028-Red2, paras 137, 146.
[4391] P-0547 testified that, in the days following his release, his family took a series of photographs of the injuries he asserted he sustained while he was at the OCRB, including scars on his arms, shoulder, back, legs and feet. [REDACTED]: P-0547: T-013, pp. 49-54, 56-58, referring to photographs CAR-OTP-2018-0586 (annotated version, CAR-REG-0002-0002), CAR-OTP-2018-0598 (annotated version, CAR-REG-0002-0003), CAR-OTP-2018-0594 (annotated version, CAR-REG-0002-0004), CAR-OTP-2018-0592 (annotated version, CAR-REG-0002-0005), CAR-OTP-2018-0590 (annotated version, CAR-REG-0002-0006), CAR-OTP-2018-0600 (annotated version, CAR-REG-0002-0007). The Chamber notes the Defence's argument that P-0547's account of how and when the photographs were taken appeared confused, and that there is nothing to guarantee the authenticity of these photographs (Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 515). In this respect, the Chamber considers that P-0547 clearly indicated that the photographs were taken by his family members, and that there is no doubt that the person featured in the photographs is P-0547. *See also* medical reports, CAR-OTP-2018-0420, CAR-OTP-2111-0086 (clearer version, CAR-OTP-2018-0421), recording [REDACTED].
[4392] P-0547: T-013, pp. 59-60, 65; P-0547: T-014, p. 37. P-0547's evidence is supported by medical reports, CAR-OTP-2018-0420, CAR-OTP-2111-0086 (clearer version, CAR-OTP-2018-0421), which record '[t]he upper limbs are paralyzed: no elevation movement'. *See also* P-0547: T-013, pp. 7-8, 17, 21. [REDACTED] also gave evidence that P-0547 'became paralysed' and did not regain his health: [REDACTED].
[4393] P-0547: T-013, pp. 59-60, 65; P-0547: T-014, p. 37; P-0547: T-017, p. 32, referring to photograph, CAR-REG-0002-0016. P-0547 testified that he provided investigators with a copy of his medical reports, signed by [REDACTED], neurologist, one of which was dated [REDACTED] September 2013 and [REDACTED]: P-0547: T-013, pp. 60-61, 63-68, referring to medical reports, CAR-OTP-2018-0420, CAR-OTP-2111-0086 (clearer version, CAR-OTP-2018-0421).

gastric problems as a result of the events that took place at the OCRB.[4394] He testified that he remains 'completely unbalanced' and cannot find himself and that his life has been completely destroyed by the mistreatment he suffered.[4395] [REDACTED].[4396]

1487. P-1297 stated that [REDACTED], as he could not move around due to his injuries.[4397]

n) Incident Q

1488. In respect of Incident Q, the Chamber considered the evidence provided by four witnesses, namely P-2400, P-2241, P-2239, who are the victims of this incident, together with the evidence provided by P-2337, who witnessed parts of the events underlying this incident. The Chamber has not relied on P-2240, who also gave evidence about this incident, as it found his account to be unreliable.[4398]

1489. At the outset, the Chamber notes that P-2400 testified that he is a Christian of [REDACTED] ethnicity and that P-2337 is the [REDACTED].[4399] P-2400 stated that he never went through any military training, never served with the FACA and has never been associated with any rebel group.[4400] P-2241 stated that she is a Christian of [REDACTED] ethnicity, her father was [REDACTED], and she is related to [REDACTED].[4401] P-2239 gave evidence that he is a Christian of [REDACTED] ethnicity and [REDACTED].[4402]

i. Events at the bar concerning P-2400 and P-2241

1490. P-2400, P-2241, P-2239 and P-2337 gave evidence that armed Seleka members arrested P-2400 and P-2241 from a public place [REDACTED] of the 4th arrondissement, Bangui.[4403]

[4394] P-0547: T-014, pp. 37-38.
[4395] P-0547: T-014, pp. 37-38.
[4396] P-0547: T-014, pp. 38-40. *See also* P-0547: T-012, pp. 29-30. *See also* P-0547: T-015, pp. 42-43; P-0547: T-016, pp. 4-5.
[4397] P-1297: CAR-OTP-2039-0167, at 0176, para. 60.
[4398] *See* above para. 193.
[4399] P-2400: T-030, pp. 14, 52.
[4400] P-2400: CAR-OTP-2104-0424, at 0426, para. 11.
[4401] P-2241: CAR-OTP-2092-3851, at 3851, at 3853, para. 14; P-2241: T-048, p. 26.
[4402] P-2239: T-122, p. 31; P-2239: CAR-OTP-2104-0918, at 0920-0921, paras 11, 13, 17. *See also* above para. 790. n. 1989.
[4403] P-2400: CAR-OTP-2104-0424, at 0427, para. 16; P-2241: CAR-OTP-2092-3851, at 3853-3855, paras 15, 25; P-2241: T-048, p. 30; P-2239: CAR-OTP-2104-0918, at 0922, 0923, paras 21, 26; P-2337: CAR-OTP-2104-0411, at 0414, 0416, paras 19, 26. The Chamber notes that P-2400 ([REDACTED]) and P-2337 ([REDACTED])

1491. As regards the date of the events, the Chamber notes that none of the four witnesses was able to recall the exact date on which it took place.[4404]

1492. P-2400 stated that he was arrested on 14 June 2013 and that this was based on what P-2337 had purportedly told him during one of his visits to the OCRB during P-2400's detention.[4405] P-2400 stated that after his release from detention, he 'heard one day on the radio that the installation ceremony of President Djotodia would take place'.[4406] As set out further below, the Chamber notes P-2400's evidence that he was detained for a week and five or six days and recalled being in the underground cell with men arrested at a funeral, which the Chamber found to have taken place on 19 August 2013.[4407] The Chamber also notes P-2337's evidence that P-2400 was released when the Seleka left the OCRB, which happened at the end of August 2013.[4408]

1493. P-2241 claimed that she had difficulties recalling dates and stated that her arrest took place on a Monday in 2013 'sometime after Easter', which the Chamber notes fell on 31 March 2013, and 'four days before the Seleka attacked Boy Rabe'.[4409] The Chamber further notes that P-2241 testified that after two weeks and two days of her detention at the OCRB, she fell ill [REDACTED].[4410] There are no other indications in her evidence that could assist the Chamber in determining the month in which the Seleka detained her at the OCRB.

1494. P-2239, who was arrested later on the same day as P-2400 and P-2241, testified that he did not know the date, day or month, but it took place shortly after Michel Djotodia's presidential inauguration.[4411] P-2337, who was present on the evening of the arrest

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referred to the location [REDACTED] whereas P-2239 referred to the location [REDACTED]. P-2337 stated that there were [REDACTED]. Both P-2400 and P-2337 stated that P-2400 [REDACTED], which is where he was arrested. P-2241, asked if she went [REDACTED], testified that they were arrested at [REDACTED]. On this basis, the Chamber is satisfied that the reference to [REDACTED] in the evidence provided by the four witnesses, as the place of arrest, is a reference to [REDACTED]. *See also* [REDACTED].

[4404] In its Closing Brief, the Prosecution approximates that the incident took place between [REDACTED] to [REDACTED] August 2013, on the basis of evidence provided by P-2239 and P-2337 because P-2400 and P-2241 could only provide general estimates: Prosecution Closing Brief, ICC-01/14-01/21-1027-Red, para. 236. The Defence argues that there is no certainty as to the date of the arrest of P-2400, P-2241 and P-2239, or as to the period of their detention at the OCRB: Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 541.

[4405] P-2400: CAR-OTP-2104-0424, at 0427, para. 16.

[4406] P-2400: CAR-OTP-2104-0424, at 0427, para. 16.

[4407] *See* above para. 1540, n. 4514. *See also* above para. [REDACTED].

[4408] *See* above para. 1564.

[4409] P-2241: CAR-OTP-2092-3851, at 3853, 3866, paras 15, 76.

[4410] P-2241: CAR-OTP-2092-3851, at 3870, paras 94-95.

[4411] P-2239: CAR-OTP-2104-0918, at 0922, para. 21.

[REDACTED], testified that he could not recall the date, but it was shortly before Michel Djotodia replaced Nouradine Adam with Josué Binoua as Minister of Public Security.[4412]

1495. The Chamber considers that P-2239 and P-2337 were forthcoming about not being able to recall the exact date of the incident and provided clear estimates based on specific events that took place on or about [REDACTED] August 2013. Further, P-2400's recollections about the length of his detention and being in the underground cell together with the men arrested at a funeral are consistent with these estimates.[4413] Accordingly, based on the estimates provided by P-2239 and P-2337, the Chamber is satisfied that the Seleka arrested P-2241, P-2400, P-2239 and another person after Michel Djotodia's inauguration ([REDACTED] August 2013).[4414]

1496. P-2400 and P-2241 testified that they were at a table [REDACTED] on the evening of their arrest.[4415] P-2400 recalled that P-2337, the owner [REDACTED], was standing at

[4412] P-2337: CAR-OTP-2104-0411, at 0414, para. 19.
[4413] *See* below paras 1540, 1543.
[4414] The Chamber has not relied on P-2400 and P-2241 as regards the date of their arrest. In this respect, the Chamber considered that P-2400's claim that his arrest took place on [REDACTED] June 2013 stood in contrast to his statement that he was detained at the OCRB for over a week, and that he heard on the radio about Michel Djotodia being inaugurated *after* he [P-2400] had been released from detention: P-2400: CAR-OTP-2104-0424, at 0427, para. 16. Similarly, the Chamber considered that P-2241's estimates that the arrest took place 'sometime after Easter' and 'four days before the Seleka attacked Boy Rabe' were vague and not indicative of whether the events took place in April or August 2013. The Chamber granted P-2400 and P-2241 appropriate latitude for the traumatic nature of the events and the passage of time, and considered that any ambiguity as regards the date of their arrest did not render the remainder of their accounts unreliable. As regards the dates of Michel Djotodia's inauguration ceremony and the appointment of Josué Binoua as Minister of Public Security in August 2013, *see* above para. 650.
[4415] P-2400: CAR-OTP-2104-0424, at 0427, para. 17; P-2400: T-030, p. 58; P-2400: T-031, p. 12; P-2241: T-048, p. 34. *See also* P-2337: CAR-OTP-2104-0411, at 0415, para. 24. The Chamber notes the Defence's argument that it is impossible to understand whether P-2400 and P-2241 arrived together, whether they planned to meet at [REDACTED] and who was the person who proposed having the meeting. The Defence also raises the fact that there is an inconsistency between P-2400, P-2337 and P-2241's accounts with respect to the nature of P-2400 and P-2241's relationship. *See* Defence Closing Brief, ICC-01/14-01/21-1039-Red, paras 531-532. The Chamber considered that P-2400 and P-2241 both consistently recalled being at the [REDACTED] between [REDACTED] on the day they were apprehended. P-2241 stated that she left her house [REDACTED] and saw P-2400 [REDACTED]; and P-2400 invited her [REDACTED]: P-2241: CAR-OTP-2092-3851, at 3853-3854, paras 15-17; P-2241: T-048, pp. 29, 33. P-2400 testified that at [REDACTED] he went out of his house and P-2241 came close to [REDACTED] and they entered [REDACTED]: P-2400: T-030, p. 57. The Chamber notes that there are inconsistencies regarding circumstances prior to these events. Namely, P-2400's in court-testimony contradicted his prior recorded testimony about whether he was working [REDACTED] on that day or not: P-2400: CAR-OTP-2104-0424, at 0427, para. 17; P-2400: T-030, p. 57. Further, P-2400 and P-2337 testified that P-2241 was [REDACTED], whereas P-2241 referred to P-2400 as [REDACTED] and testified that this was the first time that P-2400 and P-2241 had [REDACTED]: P-2400: CAR-OTP-2104-0424, at 0427, para. 17; P-2337: CAR-OTP-2104-0411, at 0415, para. 24; P-2241: T-048, pp. 29, 31. The Chamber considered that any differences in the evidence regarding P-2400 being at work [REDACTED] that day or the exact relationship between P-2440 and P-2241 were not material to the allegations relating to this incident and, in any event, of a minor nature. The Chamber considered that these inconsistencies had no impact on the credibility of their respective accounts concerning the events at the place of their arrest.

the counter.[4416] P-2337 noted that he could easily see what was happening because the front street side [REDACTED], 'is an open space without any walls or doors' and he was standing just inside.[4417]

1497. P-2337 stated that he saw four Seleka vehicles, manned by dozens of armed Seleka members, stopping in front of the [REDACTED].[4418] P-2241, P-2400 and P-2337 recalled that many Seleka members[4419] got out of their vehicles, entered the [REDACTED] and prevented people from leaving.[4420]

1498. P-2400 stated that some of the Seleka members entered, 'looking carefully at all the customers, as if they were searching for someone', one of them pointed at him and said 'that's him'.[4421] P-2241 stated that four Seleka members immediately approached her and [REDACTED] (P-2400), and told them to get up and move on.[4422]

1499. P-2400, P-2241 and P-2337 recalled that some of these Seleka members wore military

[4416] P-2400: CAR-OTP-2104-0424, at 0427, para. 17; P-2400: T-031, p. 11. P-2241 stated that she did not see the owner [REDACTED] on that day, but recalled that it was packed so she did not know whether he may have been present: P-2241: T-048, p. 34.
[4417] P-2337: CAR-OTP-2104-0411, at 0414-0415, para. 20. P-2400 similarly described the [REDACTED] having an open entrance, with the front side facing the street being entirely open, allowing one to watch the street from the inside and vice versa: P-2400: CAR-OTP-2104-0424, at 0427, para. 17. P-2241 stated that she could see the entrance to the bar from where she was sitting: P-2241: T-048, p. 34.
[4418] P-2337: CAR-OTP-2104-0411, at 0414, para. 19.
[4419] P-2337: CAR-OTP-2104-0411, at 0415, para. 22. P-2337 stated that there were eight Seleka members accompanied by their commander whereas P-2400 stated that 'there were many Seleka' but he could not recall exactly how many and could not provide an estimate: P-2400: CAR-OTP-2104-0424, at 0427, para. 18. P-2241 testified that she could not recall how many Seleka members were present at the time as she was too stressed: P-2241: CAR-OTP-2092-3851, at 3854, para. 18.
[4420] P-2241: CAR-OTP-2092-3851, at 3854, para. 17; P-2241: T-048, p. 36. P-2400 recalled seeing customers [REDACTED] rushing towards the main entrance in an attempt to get out but Seleka members had blocked the entire front side from the street: P-2400: CAR-OTP-2104-0424, at 0427, para. 18; P-2400: T-030, p. 58; P-2400: T-031, p. 12; P-2337: CAR-OTP-2104-0411, at 0415, paras 22-23.
[4421] P-2400: CAR-OTP-2104-0424, at 0428, para. 20; P-2400: T-031, p. 12. P-2400 described this person as tall and wearing a *kadamoul* and speaking Sango when pointing to him. P-2241 stated that a tall Seleka pointed towards P-2400 and said in French '[REDACTED]'; four Seleka members immediately approached them and one of them spoke in Sango: P-2241: CAR-OTP-2092-3851, at 3854, para. 21. The Chamber considered that the discrepancy regarding the language used by the tall Seleka member when pointing towards P-2400 and the exact words used were minor and explainable by the passage of time. *See also* P-2337: CAR-OTP-2104-0411, at 0415, para. 24.
[4422] P-2241 stated that one of the Seleka members whispered in Sango that they had come to look for someone else but that as that person was not around and they were sitting at '[REDACTED]' they should get up and follow them: P-2241: CAR-OTP-2092-3851, at 3854-3855, paras 21-22. P-2337 stated that he believed that the Seleka were tipped off by an informer, who accompanied the Seleka members when they apprehended P-2241 and P-2400, because the Seleka members went straight to [REDACTED] without saying a word, which P-2337 understood to mean that the Seleka members were well informed and prepared: P-2337: CAR-OTP-2104-0411, at 0415, paras 23-24.

uniforms, while others were in civilian attire,[4423] some had brassards[4424] and turbans, and were armed with Kalashnikovs.[4425] P-2241 additionally stated that the Seleka members were wearing black or red berets and some had military patches on their shoulders or chest.[4426]

1500. P-2400 recalled that when he asked the Seleka members what he had done, a Seleka member came from behind and hit him in the face with his rifle and two other Seleka members hit him with their rifle butts.[4427] P-2400 stated that they beat him everywhere and one of his finger nails got ripped off as he tried to protect himself with his hands.[4428]

1501. P-2241 and P-2400 both recalled that the Seleka members took their phones and money, and forced them out, onto the street.[4429]

1502. P-2241 recalled there being at least one Seleka member who was commanding the other Seleka members present inside the [REDACTED].[4430] P-2337 gave evidence that he subsequently found out from the Seleka informer who had accompanied the Seleka members during this operation that [REDACTED] and General [REDACTED] were the

[4423] P-2337 recognised one of the Seleka in civilian clothes, armed with an AK-47, as an individual, whom he believed to be a Seleka informer: P-2337: CAR-OTP-2104-0411, at 0415, paras 23-24; addendum to P-2337's prior recorded statement, CAR-OTP-00036901, at 0002.
[4424] P-2241 testified that the Sango speaking Seleka member who approached [REDACTED] had a dark complexion, was not very tall and was wearing a camouflage green military uniform and a red beret; he also wore a 'brassard' on his right upper arm and a black military patch on his shoulder: P-2241: CAR-OTP-2092-3851, at 3856, para. 29.
[4425] P-2400: T-031, p. 20; P-2400: CAR-OTP-2104-0424, at 0427, para. 18; P-2241: CAR-OTP-2092-3851, at 3854, paras 18-19; P-2337: CAR-OTP-2104-0411, at 0415, paras 22-23.
[4426] P-2241 stated that she could not identify military ranks and did not pay attention to whether the uniforms bore any inscriptions: P-2241: CAR-OTP-2092-3851, at 3854, para. 18.
[4427] P-2400: CAR-OTP-2104-0424, at 0428, para. 21; P-2400: T-031, p. 12.
[4428] P-2400: CAR-OTP-2104-0424, at 0428, para. 21. The Defence argues that P-2400's claims of being violently assaulted at this stage are not corroborated by P-2241 and P-2337, who stated only that they were ordered to stand up: Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 533. While the Chamber notes that P-2241 and P-2337's did not mention P-2400 being physically assaulted at this stage of the events, the Chamber considered P-2400 generally credible and there were no indications in his evidence that this aspect of his testimony was not truthful. The Chamber is, therefore, satisfied, based on P-2400's evidence, that Seleka members physically assaulted P-2400 with a rifle after apprehending him.
[4429] P-2400: CAR-OTP-2104-0424, at 0428, para. 22; P-2400: T-031, p. 12; P-2241: CAR-OTP-2092-3851, at 3855, para. 22. P-2400 also stated that a Seleka member slapped P-2241 when she refused to give them her phone: P-2400: CAR-OTP-2104-0424, at 0428, para. 23. Whereas, in her prior recorded testimony, P-2241 stated that she and P-2400 were not mistreated 'during [their] arrest and transportation': P-2241: CAR-OTP-2092-3851, at 3855, para. 26. The Chamber notes that P-2241 was not questioned in court about the physical mistreatment when she and P-2400 were forced out [REDACTED]. Considering P-2241 and P-2400's accounts together, the Chamber was not satisfied that Seleka members slapped her at this stage. *See also* P-2337: CAR-OTP-2104-0411, at 0415, para. 25.
[4430] P-2241 stated that she did not know or recognise any of the Seleka members present at the time. She recalled one Seleka member, standing separately from the others, who 'seemed to be in charge' and spoke in Arabic to other Seleka members; he was thin and tall, wearing a military uniform with a red beret and carrying a 'P.A (pistol)': P-2241: CAR-OTP-2092-3851, at 3854-3855, paras 19-20, 22.

Seleka commanders who carried out the 'arrest' and that they were taken to Camp de Roux on General [REDACTED]'s orders.[4431]

ii. Allegations made against P-2241 and P-2400

1503. P-2400 and P-2241 testified that they were the only persons whom the Seleka 'arrested' at that location and the Seleka did not inform them of the reasons for their arrest.[4432]

1504. P-2337 stated that while he was watching, a 'Seleka Colonel' approached him and asked in Sango who the [REDACTED] was, informing him that 'they were conducting an investigation and only looking for FACA'.[4433] P-2337 recalled telling the Seleka Colonel that P-2400 was the [REDACTED], but that he had never been in the military.[4434]

1505. P-2400 recalled that he heard the Seleka members accusing P-2241 of being his wife and accomplice, telling her that she should confirm that P-2400 was a FACA member, and that P-2241 did not reply to their accusations.[4435]

1506. P-2241 and P-2400 stated that when they were taken outside, Seleka members put them into one of their vehicles.[4436] P-2241 and P-2400 testified that they were put in the middle

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[4431] P-2337: CAR-OTP-2104-0411, at 0414-0416, paras 17, 19-23, 29. The Chamber notes that P-2337's recollection of General [REDACTED] wearing sunglasses, carrying a cane and being based in Camp de Roux at the time of the events is consistent with the description provided by other witnesses. *See* above para. 767, n. 1916. The Chamber also notes P-2337's evidence that when the Seleka informer described General [REDACTED] to him later, P-2337 'realised that the Seleka commander, standing next to his vehicle' was indeed General [REDACTED]. P-2400 testified that he does not know nor did he recognise any Seleka who participated in this operation but was told by P-2337 later that a Seleka General called [REDACTED] and '[REDACTED]' were 'present during that operation and [his] arrest'. P-2400 stated that he was not able to describe or recognise either of these two Seleka commanders: P-2400: T-031, p. 13; P-2400: CAR-OTP-2104-0424, at 0427, paras 19-20. On the basis of P-2337's description of General [REDACTED], the information P-2337 received on the same day directly from the Seleka informer involved in the operation, P-2241 and P-2400's testimony that they were brought to Camp de Roux where [REDACTED] was based at the time, and the evidence of P-2239 regarding General [REDACTED]'s involvement in their subsequent interrogation at Camp de Roux (as set out below, *see* paras 1519-1527), the Chamber is satisfied that [REDACTED] led the operation to apprehend P-2241 and P-2400.

[4432] P-2400: CAR-OTP-2104-0424, at 0428, para. 23; P-2241: CAR-OTP-2092-3851, at 3855, paras 25-26.

[4433] P-2337: CAR-OTP-2104-0411, at 0415-0146, paras 26-27.

[4434] P-2337: CAR-OTP-2104-0411, at 0415-0146, paras 26.

[4435] P-2400: CAR-OTP-2104-0424, at 0428-0429, para. 25. The Defence argues that P-2241 does not mention these allegations at any time and indicates that she was never informed of the reason for her arrest: Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 534. The Chamber considered P-2400 generally credible and there were no indications in his evidence that this aspect of his testimony was not truthful. While the Chamber notes that P-2241 did not give evidence that the Seleka accused her of being P-2400's wife during these events, the Chamber considers that P-2241's omission of this detail is not significant and does not contradict her statement that she was not informed of the reasons for her arrest. Having regard to the context and the totality of the evidence, the Chamber is satisfied, based on P-2400's evidence, that Seleka members suspected P-2241 of being the wife of P-2400, who was himself suspected of being a FACA member.

[4436] The Chamber notes that P-2241 and P-2400's account differed as regards the number and make of the vehicles as well as the position of the vehicle in which they were put. P-2400 recalled there were four white, double-cabin

of the back seat of the vehicle, with a Seleka member sitting on either side.[4437] P-2337 stated that after P-2400 and P-2241 were placed in the vehicle, the convoy left in the direction of the centre of Bangui.[4438]

1507. P-2400 recalled that during the drive, he heard one of the Seleka members say [REDACTED], 'General, we have accomplished our mission'.[4439] P-2400 testified that one of the Seleka members sitting next to him in the vehicle told him that they were taking them to Camp de Roux because P-2400 did not want to tell them the truth and warned him that he would kill him there.[4440]

1508. P-2400 stated that, when they arrived at Camp de Roux, he saw Seleka members bringing chairs for [REDACTED] senior Seleka members, who were armed and dressed in military attire and whom he referred to as 'kotazo'.[4441] P-2400 recalled that once the [REDACTED] Seleka 'kotazo' were seated, the Seleka members brought him and P-2241 in front of the Seleka 'kotazo' and told them to sit down on the ground in a big open square space.[4442]

1509. Both recalled being surrounded by many Seleka members at this time.[4443] P-2400 stated that they were wearing various types of uniform but he could not raise his head to look

Hilux vehicles and that he was put into the second vehicle parked in front of the entrance [REDACTED]: P-2400: CAR-OTP-2104-0424, at 0428, para. 24. P-2241 stated that there were about six vehicles parked outside the bar, five of which were BJ75 vehicles and one of which was a 'Patrol vehicle': P-2241: CAR-OTP-2092-3851, at 3855, para. 27. When asked about the Seleka vehicles in court, P-2400 added that he was put in a white Hilux and that other vehicles were parked in the darkness and so he could not identify them: P-2400: T-031, pp. 16-17. P-2241 testified in court that she was frustrated and devastated and had no time to count the number of vehicles: P-2241: T-048, p. 36. P-2337 recalled there being four vehicles, including a dark-grey Hilux and a Nissan Patrol vehicle; he stated that he stayed inside [REDACTED] and watched the Seleka member force P-2400 and P-2241 into the Hilux: P-2337: CAR-OTP-2104-0411, at 0416, paras 19-21, 26. Given the explanations provided by P-2400 and P-2241 in court regarding their ability to observe these vehicles and giving their recollections appropriate latitude considering the passage of time, the Chamber considers these inconsistencies in their accounts to be minor and as having no impact on the credibility of their accounts.

[4437] P-2400: CAR-OTP-2104-0424, at 0428-0429, para. 25; P-2241: CAR-OTP-2092-3851, at 3856, para. 28.

[4438] P-2337: CAR-OTP-2104-0411, at 0416, paras 26, 28.

[4439] P-2400: CAR-OTP-2104-0424, at 0428-0429, para. 25.

[4440] P-2400: CAR-OTP-2104-0424, at 0429, para. 26.

[4441] P-2400: CAR-OTP-2104-0424, at 0429, para. 27. P-2400 stated that the term 'kotazo' is 'a respectful word for an older or senior man with authority'. *See also* P-2241: CAR-OTP-2092-3851, at 3858, para. 36.

[4442] P-2400: CAR-OTP-2104-0424, at 0429, para. 27; P-2241: CAR-OTP-2092-3851, at 3857, paras 32-33. P-2239 identified the square as the 'Place d'Armes' at Camp de Roux: P-2239: CAR-OTP-2104-0918, at 0922, para. 22.

[4443] P-2400: CAR-OTP-2104-0424, at 0429, para. 27; P-2241: CAR-OTP-2092-3851, at 3857, paras 32-33.

at them because he did not want to run the risk that they would slap him.[4444]

1510. P-2400 recalled that one of the 'kotazo' interrogated him in Sango, asking him for his identity card, which he handed over, and for his military card, which P-2400 denied having as he was not military.[4445] P-2400 stated that this Seleka commander asked him whether his family name was '[REDACTED]', and when P-2400 confirmed that it was, the Seleka commander replied that this was a [REDACTED] family name and accused P-2400 of 'being a relative and an intelligence agent of Bozize'.[4446] P-2400 recalled that once the other Seleka members guarding them heard this, they started 'challenging [him] randomly on those allegations'.[4447]

iii. Intervention by gendarmerie official[4448]

1511. P-2400 recalled that a vehicle arrived, with 'Gendarmerie' written on it, and a gendarmerie officer approached P-2400 and asked him in Sango if he 'was a military', to which P-2400 responded that he was not and that the Seleka had arrested him for no reason.[4449] P-2400 stated that the gendarmerie officer told him that if P-2400 did not speak the truth, P-2400 would remain there.[4450]

1512. P-2241 recalled that a gendarmerie officer, whom she recognised as '[REDACTED]', approached them and asked her what had happened.[4451] P-2241 stated that she explained to him, *inter alia*, that '[she] did not know why [they] had been arrested', following which [REDACTED] spoke to the Seleka commander.[4452] P-2241 recalled that [REDACTED] then returned to her and told her that he had asked the Seleka to set her free but this request was denied, after which he left.[4453]

1513. Having regard to the above and given that P-2241 knew and recognised this gendarmerie

[4444] P-2400: T-031, p. 18. P-2400 stated that he was too scared to notice if 'any of the Seleka who had participated in [their] arrest at the bar were amongst the ones at Camp de Roux': P-2400: CAR-OTP-2104-0424, at 0429-0430, para. 28. P-2241 stated that she did not believe that the Seleka member sitting on the chair, and who she described as a commander, was among those who had arrested her: P-2241: CAR-OTP-2092-3851, at 3858, para. 36.
[4445] P-2400: CAR-OTP-2104-0424, at 0429-0430, paras 27-28.
[4446] P-2400: CAR-OTP-2104-0424, at 0430, para. 28. P-2400 stated that he belongs to the [REDACTED] ethnicity: P-2400: T-030, p. 14.
[4447] P-2400: CAR-OTP-2104-0424, at 0429-0430, para. 28; P-2400: T-031, p. 18.
[4448] The Chamber recalls that [REDACTED] was [REDACTED] at the relevant time. *See* above paras 648, 929.
[4449] P-2400: CAR-OTP-2104-0424, at 0430, para. 29; P-2400: T-031, p. 18.
[4450] P-2400: CAR-OTP-2104-0424, at 0430, para. 29; P-2400: T-031, p. 18.
[4451] P-2241: CAR-OTP-2092-3851, at 3857, para. 35; P-2241: T-048, pp. 37-38.
[4452] P-2241: CAR-OTP-2092-3851, at 3857-3858, paras 35-36.
[4453] P-2241: CAR-OTP-2092-3851, at 3858, para. 36.

official in a photograph [REDACTED],[4454] the Chamber is satisfied that both P-2241 and P-2400 were questioned in turn by him.[4455]

iv. P-2400's interrogation and mistreatment at Camp de Roux

1514. P-2400 recalled that, after the gendarmerie officer left, one of the Seleka members threatened to tie him up if he did not tell the truth,[4456] and two Seleka members took him to a building near the square where they were sitting.[4457]

1515. P-2400 stated that two Seleka members took him into a dark room, tied him using the *arbatachar* manner, stripped him naked and put a rope around his neck and that one of them cut his forehead with a knife, and pushed a knife into his lower abdomen and twisted it.[4458] P-2400 recalled that the Seleka members took [REDACTED] and that one Seleka member hit him on the head with a stick.[4459]

1516. P-2400 gave evidence that, throughout this mistreatment, the Seleka members threatened

[4454] P-2241 stated that she knew [REDACTED]: P-2241: CAR-OTP-2092-3851, at 3957, para. 34. P-2241: T-048, pp. 37-38. P-2241 recognised [REDACTED] in a photograph shown to her by the Prosecution investigators, [REDACTED], as [REDACTED]: P-2241: CAR-OTP-2092-3851, at 3872; addendum to P-2241's prior recorded testimony, CAR-OTP-00025608, at 0001. Other witnesses have also recognised the same individual in this photograph [REDACTED]. *See* [REDACTED]; P-3047: CAR-OTP-2130-6904, at 6917; P-2563: T-113, pp. 6-8 ([REDACTED]).

[4455] The Chamber notes that P-2241 recalled being questioned by [REDACTED] *after* the Seleka members had taken P-2400 away to be beaten and as he was being beaten (as set out below). P-2241 stated that while this person ([REDACTED]) was talking to her, she could hear P-2400 screaming out of pain, which made her believe that the Seleka members were still beating him. P-2241 also recalled that the Seleka members returned with P-2400 as soon as this person had left. At the same time, P-2400 recalled that the Seleka members brought him aside to be interrogated and mistreated *after* this person had left: P-2400: CAR-OTP-2104-0424, at 0430, para. 30; P-2241: CAR-OTP-2092-3851, at 3857-3858, paras 34-35, 37. The Chamber considers that the differences in these accounts concerning the sequence of events were immaterial given the traumatic circumstances in which they found themselves at the time and had no impact on the witnesses' credibility generally. The Chamber considers that, except for this minor difference about when this person questioned them, both witnesses were internally consistent as regards their questioning by a gendarmerie officer in and around the same time as P-2400 was taken away for interrogation.

[4456] P-2400: CAR-OTP-2104-0424, at 0430, para. 30. P-2400 stated that when P-2241 refused to confirm that P-2400 was a soldier and that she was P-2400's wife, one of the Seleka members slapped her in the face: P-2400: CAR-OTP-2104-0424, at 0430, para. 30. P-2241 stated that she was never 'beaten or mistreated' by Seleka members while at Camp de Roux: P-2241: CAR-OTP-2092-3851, at 3858-3859, para. 40. Given the differences in their accounts, and noting that P-2241, as the party who would have been directly affected by such an action, positively stated that she was never beaten or mistreated, the Chamber could not conclude that a Seleka member slapped P-2241 while interrogating her about P-2400's background at Camp de Roux.

[4457] P-2400: CAR-OTP-2104-0424, at 0430, para. 31. *See also* P-2241: CAR-OTP-2092-3851, at 3857, para. 33.

[4458] P-2400: CAR-OTP-2104-0424, at 0430-0431, para. 31. The Chamber notes that P-2337, who visited P-2400 when he was subsequently detained, recalled that P-2400 was unable to lift his arms because of the way he had been tied and that the signs of torture were visible on his body: P-2337: CAR-OTP-2104-0411, at 0417-0418, para. 35.

[4459] P-2400: CAR-OTP-2104-0424, at 0430-0431, para. 32. P-2241 recalled that, although she did not witness P-2400's mistreatment, she heard him screaming in pain and assumed that the Seleka were beating him: P-2241: CAR-OTP-2092-3851, at 3857, para. 33; P-2241: T-048, p. 37.

to kill him and demanded multiple times that P-2400 admit that he 'was a military' man, an allegation that he denied.[4460] P-2400 stated that at some point, when he denied being in the military, one Seleka member took a knife and threatened to cut his throat.[4461]

1517. P-2400 stated that the Seleka members then [REDACTED], tied his hands and gave his shirt back.[4462] P-2400 recalled that one of the Seleka members whipped him on his head, as a result of which he started bleeding heavily; he was eventually brought back to the square.[4463]

v. Events concerning P-2239 and another person at Camp de Roux

1518. P-2239, a [REDACTED],[4464] and who was sitting in a vehicle parked at Camp de Roux,[4465] gave evidence that in the meantime he learnt that Seleka members had 'arrested' P-2241, [REDACTED],[4466] and had brought her to Camp de Roux.[4467] P-2239 stated that he went [REDACTED][4468] and returned to his vehicle to make a phone call,[4469]

[4460] P-2400: CAR-OTP-2104-0424, at 0430-0431, para. 32. The Defence argues that P-2400 was singled out by rogue individuals who targeted [REDACTED] meaning that this was an act of personal revenge and not in furtherance of a policy: Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 536. The Chamber notes that P-2400's evidence was clear that the Seleka members mistreating him at this time also interrogated him multiple times about being a member of the military. The Chamber considers that there was no ambiguity in P-2400's testimony that he could not have been targeted for any reason other than his alleged links with the military. The Chamber also recalls that while P-2240 gave evidence about the purported motivation underlying P-2241 and P-2400's arrest, the Chamber found P-2240 unreliable as regards the events concerning Incident Q. Having regard to these considerations, the Chamber rejects the Defence's arguments concerning P-2400's mistreatment as speculative.
[4461] P-2400: CAR-OTP-2104-0424, at 0430-0431, para. 32.
[4462] P-2400: CAR-OTP-2104-0424, at 0431, para. 33.
[4463] P-2400: CAR-OTP-2104-0424, at 0431, paras 34-35.
[4464] P-2239: T-122, p. 31; P-2239: T-123, p. 8; P-2239: CAR-OTP-2104-0918, at 0921, para. 18. The Chamber recalls that [REDACTED]. *See* above para. [REDACTED]. [REDACTED]: P-2239: CAR-OTP-2104-0918, at 0922-0923, para. 23.
[4465] P-2239: CAR-OTP-2104-0918, at 0922-0923, paras 22-23. P-2239 stated that, upon his arrival at *Camp de Roux*, he saw a lot of Seleka members gathered near the main entrance, around a female civilian, wearing civilian clothes and sitting on the ground, whom he did not recognise [REDACTED] and did not pay much attention to this situation: P-2239: CAR-OTP-2104-0918, at 0922, para. 22.
[4466] P-2239: T-123, pp. 5-6.
[4467] P-2239 stated that he was sitting in a vehicle when a friend called [REDACTED], a Seleka member of Goula ethnicity, joined him and told him about Seleka members having 'arrested' [REDACTED] (P-2241) and having brought her to Camp de Roux; around the same time, P-2239 also recalled receiving a phone call from [REDACTED]: P-2239: CAR-OTP-2104-0918, at 0923, paras 24-26.
[4468] P-2239: CAR-OTP-2104-0918, at 0923, para. 26. P-2241 stated that she saw P-2239 looking [REDACTED] and leaving the scene: P-2241: CAR-OTP-2092-3851, at 3858, para. 38. The Chamber notes that P-2241 recalled P-2239 [REDACTED], which is inconsistent with P-2239's evidence that he was [REDACTED]: P-2241: CAR-OTP-2092-3851, at 3858, para. 39; P-2239: CAR-OTP-2104-0918, at 0922-0923, para. 23. The Chamber considers that this inconsistency was immaterial and had no impact on the witnesses' credibility generally. The Chamber also notes, [REDACTED]: P-2239: CAR-OTP-2104-0918, at 0921-0922, para. 18.
[4469] P-2239: CAR-OTP-2104-0918, at 0923-0924, para. 27.

when Seleka General [REDACTED] made him get out,[4470] searched him, seized his phone and ordered him to sit on the ground next to P-2241.[4471]

1519. P-2239 stated that General [REDACTED] questioned him in Sango about who he was, who he had been calling from his vehicle and whether he knew P-2241.[4472] P-2239 recalled explaining to General [REDACTED] that he was [REDACTED].[4473]

1520. P-2239 stated that a Seleka member carrying P-2239's confiscated phone saw [REDACTED].[4474] P-2239 testified that the Seleka member then accused P-2239 of making calls to 'Bozizé's men', who were on the other side of the river Oubangui in the Democratic Republic of Congo, an allegation that P-2239 denied.[4475] P-2239 stated that one of the Seleka members whipped him on the back with a rope and General [REDACTED] took out his pistol and told him to speak the truth, demanding to know 'about Bozizé's people across the river and their activities'.[4476]

1521. P-2239 recalled that a Seleka member called [REDACTED][4477] approached them and told General [REDACTED] that P-2239 was [REDACTED] and had come to Camp de Roux in that capacity and was 'not a traitor and not "the subject of his ([REDACTED]) mission"' and should be left alone.[4478]

1522. P-2239 gave evidence about [REDACTED] subsequently arriving at the scene and

[4470] P-2239: CAR-OTP-2104-0918, at 0923-0924, para. 28. P-2239 explained that he knew that it was General [REDACTED] because he had seen him previously on several occasions at Camp de Roux while waiting for [REDACTED], and his friend had pointed him out to him. P-2239 recalled that he had also heard about General [REDACTED] as he was known [REDACTED] Seleka commanders. *See* P-2239: CAR-OTP-2104-0918, at 0924, para. 28. P-2241 recalled two Seleka members wearing green military uniforms grabbing P-2239 while he was making a phone call: P-2241: CAR-OTP-2092-3851, at 3858, para. 39.
[4471] P-2239: CAR-OTP-2104-0918, at 0924, paras 29-30. *See also* P-2241: CAR-OTP-2092-3851, at 3858, para. 39.
[4472] P-2239: CAR-OTP-2104-0918, at 0924-0925, para. 31.
[4473] P-2239: CAR-OTP-2104-0918, at 0924-0925, para. 31. *See also* P-2241: CAR-OTP-2092-3851, at 3858, para. 39.
[4474] P-2239 stated that as he was being questioned by General [REDACTED], his phone rang and a Seleka colonel carrying P-2239's phone answered the call and noticed [REDACTED]: P-2239: CAR-OTP-2104-0918, at 0925, para. 32.
[4475] P-2239: CAR-OTP-2104-0918, at 0925, para. 33.
[4476] P-2239: CAR-OTP-2104-0918, at 0925, para. 34. P-2400 testified that P-2239 told him that he (P-2239) was beaten at Camp de Roux when he was arrested: P-2400: CAR-OTP-2104-0424, at 0435, para. 53.
[4477] [REDACTED]: executive order, CAR-OTP-2004-1305, at 1378-1381 (May 2013). *See also* mission orders, CAR-OTP-2034-2869 (4 September 2013), CAR-OTP-2034-3059 (20 October 2013), CAR-OTP-2034-3085 (9 November 2013). P-1420 recalled that [REDACTED] was a gendarme who had been given a rank of a Colonel by Michel Djotodia: P-1420: CAR-OTP-2040-0811, at 0836, para. 146. *See also* P-1004: CAR-OTP-2043-0536, at 0549, para. 93; P-2328: CAR-OTP-2099-0165, at 0216-0217, para. 267, draft translation: CAR-OTP-00000147, at 000052-000053, para. 267.
[4478] P-2239: CAR-OTP-2104-0918, at 0925-0926, para. 35.

inquiring what had happened and explaining to General [REDACTED] that P-2239 was [REDACTED],[4479] and that he ([REDACTED]) would inform Prosecutor Tolmo about P-2239's 'arrest' while General [REDACTED] continued to investigate P-2239.[4480] P-2239 recalled asking [REDACTED] to inform his (P-2239's) mother about his situation.[4481]

1523. P-2241 and P-2239 stated that, at this stage, Seleka members brought P-2400 back to the square to join P-2241 and P-2239,[4482] and both recalled P-2400 bleeding heavily from an injury to his head and his clothes being covered in blood.[4483]

1524. P-2241 and P-2239 stated that subsequently Seleka members also brought P-2239's friend [REDACTED] to the square and ordered him to sit next to them.[4484]

1525. P-2239 stated that a few minutes later, [REDACTED] came out of the presidential residence and said that the four of them (P-2241, P-2400, P-2239 and [REDACTED]) should be taken to the OCRB, 'following the President's instructions'.[4485]

1526. P-2239 stated that, in the presence of General [REDACTED] and [REDACTED], one of '[REDACTED]'s Seleka' accused [REDACTED] of being a traitor and cut [REDACTED]'s uniform into pieces.[4486]

[4479] P-2239: CAR-OTP-2104-0918, at 0926, para. 37. P-2239 stated that [REDACTED] while he (P-2239) was being interrogated and believed that one of the members of [REDACTED]'s group may have informed him ([REDACTED]) about what was going on.
[4480] P-2239: CAR-OTP-2104-0918, at 0927, para. 38.
[4481] P-2239: CAR-OTP-2104-0918, at 0927, para. 38.
[4482] P-2241: CAR-OTP-2092-3851, at 3858, para. 37; P-2239: CAR-OTP-2104-0918, at 0927, para. 39 (stating that he could recognise him as someone [REDACTED] but could not recall his name); P-2400: CAR-OTP-2104-0424, at 0431, para. 35.
[4483] P-2241: CAR-OTP-2092-3851, at 3858, para. 37; P-2239: CAR-OTP-2104-0918, at 0927, para. 39.
[4484] P-2239: CAR-OTP-2104-0918, at 0927, para. 40 (also stating that he heard some Seleka accusing [REDACTED] of being a traitor, probably because they had seen them talking to each other earlier); P-2241: CAR-OTP-2092-3851, at 3858-3859, para. 40. P-2400 recalled that after his mistreatment, when he was brought back to where P-2241 was, he noticed that 'there were two other male prisoners sitting next to her': P-2400: CAR-OTP-2104-0424, at 0431, para. 35; P-2400: T-030, pp. 37-38. However, from P-2241 and P-2239's accounts, it appears that the fourth person, namely [REDACTED], was made to join after P-2400 was already back at the square with P-2241 and P-2239. The Chamber considered that P-2400's recollection of there being two male persons instead of only one (P-2239), especially given the passage of time since the events, did not discredit his account.
[4485] P-2239 stated that [REDACTED] said that he would accompany them to the OCRB ordering the Seleka members not to harm them as they were 'put under investigation by the President': P-2239: CAR-OTP-2104-0918, at 0927, paras 41-42.
[4486] P-2239: CAR-OTP-2104-0918, at 0928, para. 43. The Chamber notes P-2241's evidence that she did not see the Seleka mistreating P-2239 or his friend and considered that this did not negate P-2239's evidence about a Seleka member cutting [REDACTED]'s uniform: P-2241: CAR-OTP-2092-3851, at 3858-3859, para. 40.

vi. Transfer of four persons to the OCRB

1527. P-2241, P-2400 and P-2239 gave evidence that the Seleka took the four of them from Camp de Roux to the OCRB in a vehicle escorted either by General [REDACTED]'s vehicle or one of the vehicles used by the Seleka who had apprehended them.[4487] P-2241 and P-2239 stated that [REDACTED] accompanied them in the vehicle.[4488]

vii. Registration at the OCRB

1528. P-2241 stated that, after arriving in the courtyard of the OCRB, the [REDACTED], who had accompanied them in the vehicle, spoke with a Seleka member at the OCRB.[4489] P-2239 gave evidence that the [REDACTED] spoke to a Seleka Colonel and identified this person as Mr Said.[4490]

1529. The Chamber notes that P-2239's identification of Mr Said in this context is contradicted by his own prior recorded testimony, in which he stated that he did not know the name of the Seleka Colonel to whom [REDACTED] transferred their custody.[4491] Mr Said's presence at the time of the detainees' arrival at the OCRB is also not reflected in the evidence of P-2241 and P-2400, who recalled that soon after their arrival, they were

[4487] P-2241: CAR-OTP-2092-3851, at 3859, para. 41; P-2239: CAR-OTP-2104-0918, at 0927, para. 42; P-2400: CAR-OTP-2104-0424, at 0431, para. 37. The Chamber also notes P-2239's testimony to the effect that General [REDACTED]'s vehicle escorted them to the OCRB and that he saw General [REDACTED] at the OCRB when he arrived: P-2239: CAR-OTP-2104-0918, at 0928, para. 44; addendum to P-2239's prior recorded testimony, CAR-OTP-00037514, at 0003; P-2239: T-122, p. 37. P-2400 also recalled a second vehicle accompanying theirs to the OCRB and recognised it as one of those that had been used when he and P-2241 were arrested: P-2400: CAR-OTP-2104-0424, at 0431, para. 36; P-2400: T-031, p. 19.

[4488] P-2241: CAR-OTP-2092-3851, at 3859-3860, paras 43, 46-47; P-2239: CAR-OTP-2104-0918, at 0928, para. 44. P-2241 and P-2239 recalled [REDACTED] sitting next to the driver in the cabin of the pick-up truck and them being made to sit in the back. Although P-2400 did not mention [REDACTED] being in the vehicle with them, he recalled that a vehicle arrived and brought them to 'a courtyard' 'after a short while'; he heard 'one of the two other male prisoners' saying that they were at the OCRB: P-2400: CAR-OTP-2104-0424, at 0431-0432, paras 36-37.

[4489] P-2241: CAR-OTP-2092-3851, at 3860, para. 47. P-2400 stated that the Seleka sitting next to the driver told one of the Seleka at the OCRB to take them into custody: P-2400: CAR-OTP-2104-0424, at 0431-0432, para. 37.

[4490] P-2239: T-122, pp. 40-41.

[4491] In his prior recorded testimony, P-2239 stated that when they got out of the vehicle, [REDACTED] took them to a Seleka Colonel, who he believed was the commander in charge of the OCRB because he heard the Seleka calling him 'Colonel' and also acting as if he was in authority: P-2239: CAR-OTP-2104-0918, at 0928, paras 45-46; [REDACTED]. *See* [REDACTED]. During his testimony, P-2239 again identified this Seleka Colonel as Mr Said and testified that [REDACTED] gave instructions to Colonel Said to keep the four persons in custody: P-2239: T-122, pp. 40-41. P-2239 testified that he thought that he had mentioned Mr Said's name at the beginning of his interview with the Prosecution investigators in 2018 but 'maybe they forgot'. When asked how he came to learn of Mr Said's identity, P-2239 testified that on the night of the arrest, he did not know that it was 'Colonel Said' and it was the next morning that he found out, when someone said 'that's Colonel Said': P-2239: T-123, pp. 30-31. Yet at the time that P-2239 gave his statement in 2018, he claimed not to have known the name of the Seleka Colonel: P-2239: CAR-OTP-2104-0918, at 0928, para. 46. *See also* above paras 180-184.

brought to a Seleka member[4492] seated behind a table under a veranda attached to one of the two buildings inside the OCRB courtyard, who registered their names.[4493] P-2241 stated that the person whom the detainees encountered upon arrival was not Mr Said[4494] and that she only met Mr Said on her second day of detention at the OCRB.[4495] Further, P-2400 stated that, a Seleka commander, who he later learnt was Mahamat Said,[4496] arrived in his vehicle at the OCRB about one hour after the detainees were registered there.[4497] Accordingly, and given the differences in the accounts of these witnesses about the identity of the person with whom [REDACTED] spoke upon arrival at the OCRB, the Chamber cannot conclude that Mr Said personally received custody of the four persons when they arrived at the OCRB.[4498]

1530. P-2400 gave evidence that when he told the Seleka who he was, a Seleka member hit him hard and he fell on the ground, after which another Seleka member hit his neck and threatened to kill him with a knife.[4499]

[4492] P-2241 described this Seleka member as 'fat', very corpulent, not very tall, having a black complexion and wearing military camouflage trousers and a green military T-shirt; she never learnt the name of this Seleka member but stated that he had a heavy weapon, mounted on two stands, on the ground next to him and an automatic pistol attached to his belt: P-2241: CAR-OTP-2092-3851, at 3860, para. 48. P-2400 described this Seleka member as being 'quite big and fat' and wearing a desert military uniform and a green brassard. P-2400 added that he never learnt the name of this Seleka member: P-2400: CAR-OTP-2104-0424, at 0432, para. 39. P-2400 also testified that this Seleka member was [REDACTED] and that he did not appear in the photograph, CAR-OTP-2069-3227 (in which Mr Said and Tahir appear next to Michel Djotodia): P-2400: T-031, pp. 21-22.

[4493] P-2400 gave evidence that this Seleka member seated at the table questioned all four of them about their identity: P-2400: CAR-OTP-2104-0424, at 0432, para. 39; P-2400: T-031, p. 21. *See also* P-2239: CAR-OTP-2104-0918, at 0928, para. 45 (also recalling being asked to empty their pockets and remove their belts and shoes). P-2241 identified the entrance to the OCRB courtyard: addendum to P-2241's prior recorded testimony, CAR-OTP-00025608, at 0001, referring to photograph, CAR-OTP-2033-6811.

[4494] P-2241, who recognised Mr Said in a photograph, CAR-OTP-2069-3226, during her interview with the Prosecution in [REDACTED], stated that the Seleka member who registered them and whom she described as fat was *not* Mr Said: P-2241: CAR-OTP-2092-3851, at 3860, 3863, paras 48, 61, at 3872, referring to photograph, CAR-OTP-2069-3226.

[4495] P-2241 testified that she learnt Mahamat Said's name because she heard, from the room in which she was detained next to Mr Said's office, other Seleka at the OCRB calling him 'Mahamat' and reporting to him on a regular basis: P-2241: CAR-OTP-2092-3851, at 3863, paras 60-61.

[4496] P-2400 stated that he learnt later from a Seleka member at the OCRB that 'Mahamat Said was in charge of the OCRB': P-2400: CAR-OTP-2104-0424, at 0433-0434, para. 43, 49. P-2400, shown photographs of Mr Said in court, identified him in two different photographs, CAR-OTP-2069-3226 (annotated version, CAR-REG-0002-0072) and CAR-OTP-2069-3227 (annotated version, CAR-REG-0002-0073): T-030, pp. 42-43.

[4497] P-2400 described Mahamat Said as 'very fat' and 'taller than me', clean-shaven, wearing military uniform and bearing two small firearms: P-2400: CAR-OTP-2104-0424, at 0432-0433, para. 41.

[4498] Given that P-2400 also recalled Mr Said being present at the OCRB that night (see below), the Chamber considers that the inconsistency with P-2239's account about when the witnesses encountered Mr Said that night is minor and did not impact the credibility of their respective accounts.

[4499] P-2400: CAR-OTP-2104-0424, at 0432, paras 39-40; P-2400: T-031, p. 21. P-2241 recalled sitting in the OCRB courtyard, going to the toilet and being able to talk to the other three detainees discreetly; she also stated that the four prisoners 'did not get beaten upon arrival at the OCRB': P-2241: CAR-OTP-2092-3851, at 3860,

1531. P-2400 recalled there being another Seleka member present at this time seated next to the Seleka member who registered them and, although he did not know his name, he was able to identify him in a photograph.[4500] Other witnesses have identified this person as 'Tahir'.[4501] According to P-2400, this Seleka member ('Tahir') also questioned P-2400, threatened him, and 'gave the order that [P-2400] be left, and that [P-2400] was to await the instructions of Mahamat Said'.[4502]

1532. P-2400 stated that a Seleka Commander, who he later learnt was Mahamat Said arrived about one hour after his initial mistreatment at the OCRB and gave an order in Sango to two of his armed Seleka to take P-2400 to the underground cell in the main building.[4503] P-2400 stated that [REDACTED] told him later that Mahamat Said was in charge of the OCRB, that the underground cell was located underneath Mahamat Said's office and that Mahamat Said had ordered P-2400's imprisonment in the basement.[4504] Taking into account the length of time that P-2400 was detained in the underground cell and his proximity to Mr Said's office during this time, as well as his subsequent interactions with Mr Said as described below, the Chamber is satisfied that P-2400 was in a position to identify Mr Said as the person who gave the order to detain him in the underground cell

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para. 51. The Defence points to this aspect of P-2241's statement to argue that her account did not corroborate P-2400's alleged ill-treatment upon arrival at the OCRB: Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 537. The Chamber considers the differences in P-2400 and P-2241's accounts about the physical mistreatment upon arrival at the OCRB to be explainable by the passage of time. The Chamber also found P-2400 to be generally credible and there were no indications in his evidence that this aspect of his testimony was not truthful. The Chamber further notes that P-2241 was not present with the three male detainees for the entire duration of the time they spent in the OCRB courtyard together, as she left the scene to go to the toilet. Based on these considerations and P-2400's evidence, the Chamber is satisfied that two Seleka members at the OCRB physically assaulted P-2400 as he was being registered at the OCRB and after he gave them information about his identity.

[4500] P-2400 did not know the name of this person but identified him in a photograph: P-2400: T-030, p. 43; P-2400: T-031, pp. 22-23, referring to photograph, CAR-OTP-2069-3227 (annotated version, CAR-REG-0002-0073).

[4501] *See* [REDACTED], referring to photograph, CAR-OTP-2069-3227 ([REDACTED]); [REDACTED]; addendum to P-1429's prior recorded testimony, CAR-OTP-00000590, at 000003.

[4502] P-2400: T-031, p. 22, referring to photograph, CAR-OTP-2069-3227.

[4503] P-2400: CAR-OTP-2104-0424, at 0432-0433, paras 41-42. *See also* P-2239: CAR-OTP-2104-0918, at 0929, para. 50 (learning later on that P-2400 had been detained in the underground cell). While P-2241 mentioned meeting Mahamat Said the next day (P-2241: CAR-OTP-2092-3851, at 3863, para. 60), the Chamber is satisfied that this does not contradict P-2400's direct evidence that Mr Said was present at the OCRB on the night of their arrest and ordered, or otherwise confirmed the order to bring P-2400 to the underground cell.

[4504] P-2400: CAR-OTP-2104-0424, at 0434, para. 49. *See also* P-2400: CAR-OTP-2104-0424, at 0433, paras 42-43. P-2400's evidence about [REDACTED] presence at the OCRB, involvement in organising visits in Mr Said's absence and carrying a Kalashnikov is consistent with [REDACTED] evidence, who was also detained in the underground cell around the same time. *See* above paras 1452, 1469. The Chamber notes that P-2400's testimony as to the location of the underground cell is consistent with that received from other witnesses. *See* above para. 1094.

and the person in charge of the OCRB.[4505]

1533. The Chamber notes P-2241's evidence that the 'fat' Seleka member at the table outside ordered that P-2400 be taken to the underground cell and that she only recalled seeing Mahamat Said at the OCRB the next day.[4506] P-2241 stated that she subsequently saw Seleka members taking P-2400 into the main OCRB building and then heard the 'fat' Seleka asking whether they had 'put the prisoner in the basement' and the Seleka members confirmed that they had.[4507] The Chamber notes that P-2241 and P-2400 provide different accounts of the sequence in which they were assigned to various cells and taken away, each recalling that the other was taken away first.[4508] The Chamber further notes that P-2241 was not present with the three male detainees for the entire duration of the time they spent in the OCRB courtyard together, as she left the scene to go to the toilet.[4509] Based on the foregoing, the Chamber considers that P-2241 and P-2400's accounts of who gave the order for P-2400's detention in the underground cell are not contradictory and reflect different perspectives and recollections of traumatic events.

1534. Having regard to the evidence set out above, the Chamber concludes that, even if Mr Said did not personally receive custody of the four detainees (P-2241, P-2400, P-2239 and [REDACTED]) when the Seleka took them to the OCRB, Mr Said was present at the OCRB later that night. The Chamber concludes that Mr Said arrived at the OCRB approximately an hour after the OCRB Seleka had registered the four detainees and he subsequently issued the instruction to detain P-2400 in the underground cell.

1535. There is no indication in the evidence that the Seleka members who detained the four persons (P-2241, P-2400, P-2239 and [REDACTED]) or the OCRB Seleka provided them with any lawful basis for arresting and detaining them at the OCRB.

[4505] The Chamber also considered that P-2400's evidence was consistent with the Chamber's general assessment of Mr Said's role and authority at the OCRB, particularly, in ordering the OCRB Seleka to place detainees in cells, including the underground cell. *See* above paras 1122-1126.
[4506] *See* below para. 1551. *See* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 538.
[4507] P-2241: CAR-OTP-2092-3851, at 3861, paras 51, 53. P-2241 stated that she did not know where the basement was situated and had never seen it.
[4508] P-2241: CAR-OTP-2092-3851, at 3861, paras 51, 53-54 (seeing P-2400 being taken inside the main OCRB building first, followed by her, while P-2239 and his friend remained seated on the ground); P-2400: CAR-OTP-2104-0424, at 0433, para. 42; P-2400: T-030, pp. 36-37 (being separated from the others and being able to see that P-2241 was taken to the main OCRB building); P-2239: CAR-OTP-2104-0918, at 0928, para. 47 (seeing Seleka members taking P-2400 and P-2241 into the main OCRB building).
[4509] P-2241: CAR-OTP-2092-3851, at 3860, para. 51.

1536. Given that the detainees were subsequently detained separately, the evidence relevant to the detention of P-2400, P-2239 (together with [REDACTED]) and P-2241 is addressed in turn below.

viii. P-2400's detention at the OCRB

a. Detention in the underground cell

1537. P-2400 recalled that two Seleka members took him to 'the basement', told him to 'get into the hole' and one of them threatened to kill P-2400 if he refused.[4510] P-2400 stated that he 'jumped inside the hole as there were no stairs'.[4511]

1538. P-2400 gave evidence that the underground cell was dark, 'quite cold' and lacked air and because his head was still bleeding and his clothes were soaked in blood, he felt chilly.[4512] P-2400 also stated that the underground cell was very dirty, with the floor being 'covered in waste such as paper, cardboard, grass, [and] nylon', and smelled of 'faeces and urine'.[4513]

1539. P-2400 recalled there being other male prisoners in the underground cell and, because there was not enough space for them to lie down and sleep, some of them would sit and sleep while sitting with their backs against the wall.[4514] P-2400 stated that the detainees

[4510] P-2400: CAR-OTP-2104-0424, at 0433, paras 43-44. P-2400 stated that the entrance to the basement was covered with a wooden plank with a hole in the middle, which was covered by a cardboard and that the basement was also called the 'hole': P-2400: CAR-OTP-2104-0424, at 0433, para. 44.
[4511] P-2400: CAR-OTP-2104-0424, at 0433, para. 43.
[4512] P-2400 stated that there was a small hole or window with three metal bars on one of the walls and that this was covered from the outside with a big stone but some daylight could enter the basement through the cracks in the window: P-2400: CAR-OTP-2104-0424, at 0433, para. 44. *See also* P-2400: T-031, p. 24.
[4513] P-2400: CAR-OTP-2104-0424, at 0433, paras 44-45.
[4514] P-2400: CAR-OTP-2104-0424, at 0433, para. 45; P-2400: T-030, pp. 36-37. The Chamber notes that, in his prior recorded testimony, P-2400 recalled that when he was forced to enter the underground cell, there were already four male detainees in there, whereas during his in-court testimony, he testified that there were three. The Chamber considered this inconsistency to be minor and to have no impact on his credibility generally. The Chamber also notes P-2400's evidence that these other male prisoners in the underground cell had told him that they had been arrested from a funeral and had been put in the underground cell three days before his arrival. P-2400 described their clothes, approximate age and physical build. P-2400 also recalled one of them having a wound on the side of the head, while another had a wound on his arm. P-2400 recalled that nobody ever came to visit them while he was detained with them. P-2400 stated that when he was removed from the basement, after five days, 'the four other prisoners remained imprisoned in the basement' and he did not know what finally happened to them and did not ever see them in the cells in the OCRB courtyard. *See* P-2400: CAR-OTP-2104-0424, at 0434-0435, para. 45. The Chamber considers that P-2400's description of the other male detainees corresponds to the detention of the four men underlying Incident M. The Chamber recalls its findings concerning Incident M. Specifically, the Chamber recalls that the four men were arrested on 18 August 2013 and forced into the underground cell on 19 August 2013. Three of the men remained in the underground cell for [REDACTED] and were released on [REDACTED] August 2013 and one of them remained in the underground cell until the end of August 2013. The Chamber considers that P-2400 would have observed three of the four men leave the underground cell to be interviewed by the representatives of the prosecutors and leave the underground cell on

had to urinate and defecate inside the underground cell.[4515]

1540. P-2337 explained how he learnt of P-2400's detention at the OCRB,[4516] *inter alia*, through the involvement of a Seleka member at the OCRB called [REDACTED].[4517] P-2337 stated that he went to see P-2400 at the OCRB and when he first saw him, he could see that P-2400 'looked exhausted', that 'it was clear that he was suffering'.[4518] P-2337 recalled seeing 'signs of torture on his body' and 'bruises on his head', noting that P-2400 was unable to lift his arms because of the way he had been tied.[4519]

1541. P-2337 and P-2400 stated that P-2337 would regularly bring food for P-2400, which P-2400 shared with his co-detainees.[4520] P-2400 stated that [REDACTED] could have him taken out of the underground cell to meet P-2337 when Mr Said was not in the building and these meetings would not last more than five minutes, as [REDACTED] was afraid that Mr Said might return and notice P-2337's visits.[4521] P-2400 stated that P-2337 also gave him (P-2400) medicine for his wounds and money to 'tip the Seleka

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[REDACTED] August 2013, never to return. Accordingly, P-2400's evidence on two discrete aspects is inconsistent with P-3064's evidence, namely, that these four men were put in the underground cell three days before his arrival and remained there for the five days, sharing the underground cell with P-2400. Further, noting that P-2400 was severely injured and detained in terrible conditions in the underground cell soon after being subjected to torturous acts at Camp de Roux, the Chamber granted him appropriate latitude, especially when it concerned the recollection of specific details about the detention of the other male detainees in the underground cell. The Chamber has also considered these accounts holistically and noted the common features of P-2400's evidence and that of the three witnesses concerning Incident M as regards their approximate ages, wounds on their bodies and relative timeframe of their detention. Having regard to these considerations, the Chamber is satisfied that P-2400 shared the underground cell with the four men related to Incident M and that three of these four men were released before P-2400 was moved out of the underground cell.

[4515] P-2400: CAR-OTP-2104-0424, at 0434, para. 46.

[4516] P-2337 stated that when he went looking for P-2400, he decided to go to the OCRB and met a Seleka member, who first told him that P-2400 had not been detained there but later confirmed it. P-2337 was also informed by P-2241's family that P-2400 had been detained at the OCRB: P-2337: CAR-OTP-2104-0411, at 0417, paras 31-35. *See also* P-2400: T-031, p. 14.

[4517] P-2400 described [REDACTED] as short, fat, clean-shaven. P-2400 stated that [REDACTED] was from [REDACTED] and spoke Arabic and Sango, and heard other Seleka members calling him 'commandant'; he would wear civilian clothing and carry a Kalashnikov. P-2400 also recalled that [REDACTED] told him that he used to be a [REDACTED] and joined the Seleka, and that at some point, the Seleka [REDACTED]. *See* P-2400: CAR-OTP-2104-0424, at 0434, para. 47. The Chamber notes P-2337's evidence that [REDACTED] told him on one occasion that Nouradine Adam had brought a young man to the OCRB at 2:00 and detained him in the underground cell: P-2337: CAR-OTP-2104-0411, at 0418, para. 34. Recalling the circumstances of how Seleka members brought P-2400 to the OCRB, the timing and the Seleka members involved, the Chamber considers that [REDACTED]'s reference to Nouradine Adam bringing a young man to be detained in the underground cell was not a reference to P-2400.

[4518] P-2337: CAR-OTP-2104-0411, at 0417-0418, para. 35.

[4519] P-2337: CAR-OTP-2104-0411, at 0417-0418, para. 35.

[4520] P-2400: CAR-OTP-2104-0424, at 0434, para. 46; P-2337: CAR-OTP-2104-0411, at 0418, para. 37. *See also* P-2241: CAR-OTP-2092-3851, at 3865, para. 72.

[4521] P-2400: CAR-OTP-2104-0424, at 0434, para. 48.

guards'.[4522]

1542. P-2400 testified that he was detained in the underground cell for five days.[4523] P-2400 stated neither he nor any other prisoners in the underground cell were beaten.[4524]

b. P-2400's detention in a cell in the OCRB courtyard

1543. P-2400 stated that [REDACTED] told him that [REDACTED] to the 'Seleka Generals' to have him moved out of the underground cell and, on the sixth day of his detention, P-2400 was allowed to shower and was subsequently detained in one of the cells in the OCRB courtyard.[4525] P-2400 stated that [REDACTED] told him that, 'in the meantime, the Seleka were conducting an investigation to find out if [P-2400] was a military or not'.[4526]

1544. P-2400 described his cell as being overcrowded, such that the detainees could not sleep on the floor and had to sit against the wall while sleeping.[4527] P-2400 testified that he spent one week in the courtyard cell and during this time he was never beaten or tortured.[4528] P-2400 recalled seeing other detainees being beaten, tied up, and have water poured on them; he stated that sometimes, from the inside of his cell, he would also hear screams of detainees being beaten outside.[4529]

1545. P-2400 testified that throughout his detention at the OCRB, including the five days in the underground cell, he was never interviewed or visited by a 'prosecutor, lawyer, journalist,

[4522] P-2400: CAR-OTP-2104-0424, at 0434, para. 48. [REDACTED]: P-2337: CAR-OTP-2104-0411, at 0418, para. 37.
[4523] P-2400: CAR-OTP-2104-0424, at 0434, para. 46. The Defence argued that there are no witnesses to P-2400's detention in the underground cell, as the other witnesses were either unable to identify the location of the 'basement' or were not eyewitnesses to his actual detention in the cell: Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 539. The Chamber found that P-2400 was a generally credible witness and there are no indications in his evidence that this aspect concerning his detention in the underground cell is not truthful. The Chamber considers that P-2337 gave evidence that he regularly visited P-2400 at the OCRB during the latter's detention in the underground cell and recalled seeing him in a terrible state. The Chamber also considers P-2400's evidence concerning the underground cell to be consistent with that of other witnesses detained there in and around the same time. *See* above paras 1094, 1399. In light of these considerations, the Chamber rejects the Defence's arguments.
[4524] P-2400: CAR-OTP-2104-0424, at 0434, para. 47. The Chamber notes its findings concerning Incidents M and O. As regards Incident M, the Chamber found that P-3056 was taken out of the underground cell during the first night of his detention, 19 August 2013. The Chamber did not consider P-2400's general statement about other detainees from the underground cell not being beaten to have an impact on his credibility.
[4525] P-2400: CAR-OTP-2104-0424, at 0435, para. 52.
[4526] P-2400: CAR-OTP-2104-0424, at 0435, para. 52.
[4527] P-2400: CAR-OTP-2104-0424, at 0435, para. 53.
[4528] P-2400: CAR-OTP-2104-0424, at 0435, para. 53.
[4529] P-2400: CAR-OTP-2104-0424, at 0435-0436, paras 54, 57.

politician, [or] NGO'.[4530] P-2400 stated that the Seleka member who registered them at the OCRB did not ask for the contact details of family members.[4531] P-2400 stated that he received no treatment for his injuries from any Seleka member at the OCRB, despite the fact that he was still bleeding when he arrived there, and he had to wrap his shirt around the wound on his head.[4532] P-2400 and P-2337 stated that P-2337 was allowed to visit P-2400 and bring him medicine for his wounds.[4533]

ix. P-2239 and one other person's detention at the OCRB

1546. As regards the two detainees that remained in the OCRB courtyard, P-2239 stated that he (P-2239) and [REDACTED] were told to take off their clothes except for their trousers and were put in one of the cells of the cellblock in the rear of the OCRB compound.[4534]

1547. P-2239 stated that his cell measured about two to three metres and there were about 15 prisoners inside.[4535] P-2239 recalled that they had to relieve themselves in a plastic bucket and every once in a while, he (P-2239) would be allowed to leave the cell to empty the bucket in the toilets outside; sometimes they were allowed to spend time in the courtyard during the day and to shower.[4536] P-2239 stated that the Seleka members never mistreated him during his detention at the OCRB, which he believed was because he was a [REDACTED].[4537]

1548. P-2239 stated that those detained in the OCRB courtyard 'were allowed to have family visits, twice a day, for about one hour' and to have two meals provided by their family.[4538]

[4530] P-2400: CAR-OTP-2104-0424, at 0434, 0436, paras 47, 59.
[4531] P-2400: CAR-OTP-2104-0424, at 0432, para. 39.
[4532] P-2400: CAR-OTP-2104-0424, at 0433, para. 44; P-2400: T-030, p. 45.
[4533] P-2400: CAR-OTP-2104-0424, at 0434, para. 48; P-2400: T-031, pp. 15, 26; P-2337: CAR-OTP-2104-0411, at 0417-0418, paras 32, 37.
[4534] P-2239: CAR-OTP-2104-0918, at 0928-0929, paras 47-48. *See also* P-2241: CAR-OTP-2092-3851, at 3864, para. 66; P-2400: CAR-OTP-2104-0424, at 0435, para. 53. P-2239 testified that he was detained in the same cell throughout his detention: P-2239: CAR-OTP-2104-0918, at 0929, para. 49. The Chamber notes that P-2239, shown a photograph of a cellblock in the OCRB courtyard, confirmed that this was the cellblock where he was detained: P-2239: T-122, p. 38, referring to photograph, CAR-OTP-2033-6871. *See also* P-3112's OCRB Report, CAR-OTP-2062-0743, at 0850-0851; photographs of cellblock, CAR-OTP-2033-6871, CAR-OTP-2033-7024. *See also* above para. 1077.
[4535] P-2239: CAR-OTP-2104-0918, at 0929, para. 48. P-2239 stated that he was the only [REDACTED] in his cell. He believed that most of 'the other prisoners were all young Seleka delinquents, who were accused of burglaries, drug dealing and robberies' but they never told him anything about their activities and reason for arrest.
[4536] P-2239: CAR-OTP-2104-0918, at 0929, para. 52.
[4537] P-2239: CAR-OTP-2104-0918, at 0932, 0931, paras 60-63.
[4538] P-2239: CAR-OTP-2104-0918, at 0929, 0932, 0934-0935, paras 51, 63, 75. P-2239 also stated that he received daily visits from his family [REDACTED], and would sometimes be accompanied by [REDACTED], which the Chamber understands to be a reference to P-2337. *See also* P-2241: CAR-OTP-2092-3851, at 3865, para. 72.

1549. P-2239 stated that after a few days, General [REDACTED] came and questioned him about his 'complicity in […] planning of a coup d'état against the President', urging P-2239 to tell the truth.[4539] P-2239 testified that General [REDACTED] asked him whether he was hiding any weapons, as the Seleka had found ammunition clips [REDACTED] during their search and said that he knew that 'people from Boy Rabe, were hiding weapons'.[4540] P-2239 stated that he replied that he 'had no weapons whatsoever'.[4541]

x. P-2241's detention at the OCRB

1550. P-2241 stated that the Seleka member, whom she described as fat, ordered the Seleka members to take her inside the main OCRB building.[4542] P-2241 described how a Seleka member at the OCRB then took her into one of the offices there [REDACTED].[4543]

1551. P-2241 stated that she screamed and two Seleka members intervened and took her to another room, [REDACTED].[4544] P-2241 added that shortly thereafter the Seleka member at the OCRB [REDACTED] entered this room, grabbed her and tried to drag her out.[4545] P-2241 recalled that when she screamed, an older Seleka commander intervened and stopped the Seleka member from harassing her.[4546] P-2241 gave evidence that the same Seleka member, [REDACTED], later also followed her [REDACTED] to get access to her.[4547] P-2241 stated that she managed to [REDACTED] run away but that, after this incident, she would shower together with the other female detainees to avoid the Seleka member from harassing her, and no other incidents happened again.[4548]

1552. P-2241 recalled that she slept on the floor of the [REDACTED] for the remainder of her

[4539] P-2239: CAR-OTP-2104-0918, at 0931, para. 58.
[4540] P-2239: CAR-OTP-2104-0918, at 0931, paras 59-60. P-2241 described a visit by '[REDACTED]' to the OCRB during her detention; she knew that it was [REDACTED] because one of the Seleka members shouted 'to clear the way as [REDACTED] was arriving' and she saw him stepping out of his vehicle and speaking briefly with Mr Said and the Seleka members around him, before leaving: P-2241: CAR-OTP-2092-3851, at 3867, para. 82.
[4541] P-2239: CAR-OTP-2104-0918, at 0931, para. 60.
[4542] P-2241: CAR-OTP-2092-3851, at 3860, para. 48.
[4543] [REDACTED]. *See* P-2241: CAR-OTP-2092-3851, at 3861-3862, 3865, paras 55-56, 73; P-2241: T-048, pp. 17-18.
[4544] P-2241: CAR-OTP-2092-3851, at 3861-3862, para. 56.
[4545] P-2241: CAR-OTP-2092-3851, at 3862, para. 57.
[4546] P-2241: CAR-OTP-2092-3851, at 3862, para. 57.
[4547] P-2241: CAR-OTP-2092-3851, at 3862, paras 57-58.
[4548] P-2241: CAR-OTP-2092-3851, at 3862, paras 57-58.

detention, [REDACTED] remaining there alone for four nights.[4549] P-2241 stated that, on the second day of her detention, Mahamat Said told her [REDACTED] that they should stay in [REDACTED] during the day.[4550] P-2241 recalled that this [REDACTED] had a window facing the cellblock at the back of the OCRB courtyard[4551] from which she was able to observe Seleka members bringing detainees in and out of the cells, beating them and tying them up.[4552] P-2241 also stated that from this window, she could see Mr Said in the OCRB courtyard during the day.[4553]

1553. P-2241 testified that detainees were allowed to receive family visits and that her [REDACTED] would bring food to the OCRB [REDACTED].[4554] P-2241 recalled being allowed to go to the shower and toilet at the OCRB.[4555] P-2241 stated that she and [REDACTED] were allowed to [REDACTED] each day, from 18:00 to 20:00, in front

[4549] P-2241: CAR-OTP-2092-3851, at 3862, paras 57, 59. P-2241 identified the [REDACTED] where she was kept while at the OCRB in two photographs: P-2241: T-048, pp. 50-51, referring to photographs of OCRB interior, CAR-OTP-2033-7295, CAR-OTP-2033-7298. *See also* P-2239: T-122, p. 42.

[4550] P-2241 explained that she knew this person was the accused as she could hear the other Seleka at the OCRB call him 'Mahamat Said': P-2241: CAR-OTP-2092-3851, at 3863, para. 60. P-2241 recognised Mr Said in a photograph shown to her by the Prosecution investigators: P-2241: CAR-OTP-2092-3851, at 3872, referring to photograph, CAR-OTP-2069-3226; addendum to P-2241's prior recorded testimony, CAR-OTP-00025608, at 0001. P-2241 also stated that the room in the main OCRB building where she and the two other female detainees stayed during the day was situated next to Mr Said's office. P-2241 also recalled seeing 'regular OCRB police officers, wearing police uniforms' using other offices in the main building during the day. *See* P-2241: CAR-OTP-2092-3851, at 3864, para. 69. During her cross-examination by the Defence in court, P-2241 was shown a number of photographs of [REDACTED] and asked, *inter alia*, to identify the [REDACTED] where she would spend the night in the OCRB main building. P-2241 indicated that she could not identify this [REDACTED] in the photographs shown to her (in particular, photographs of the interior of [REDACTED], CAR-OTP-2033-7201, CAR-OTP-2033-7194, CAR-OTP-2033-7205, CAR-OTP-2033-7215, CAR-OTP-2033-7287, CAR-OTP-2033-7274) and appeared visibly distressed upon being shown these photographs. The Defence then insisted on showing further exhibits of the interior of the OCRB main building to refresh her memory. Subsequently, upon being shown photographs, CAR-OTP-2033-7295 and CAR-OTP-2033-7298, P-2241 testified that these two photographs depicted the [REDACTED] where they would spend the night. *See* P-2241: T-048, pp. 43-51. Noting P-2241's demeanour in court upon being shown a series of photographs of the interior of the [REDACTED], the traumatic events she experienced there and the fact that these photographs were taken years after the events, the Chamber considers that P-2241 was unable to reliably identify the [REDACTED] where she slept in the OCRB building. For the same reasons, the Chamber considers that this had no impact on the credibility of her account that she was detained in one of the [REDACTED].

[4551] P-2241: CAR-OTP-2092-3851, at 3863-3864, paras 62, 66. In a photograph shown to her in court, P-2241 identified this [REDACTED] as the one with the window 'close to the mango trees': P-2241: T-048, pp. 40-42, referring to photograph, CAR-OTP-2033-6828.

[4552] P-2241: CAR-OTP-2092-3851, at 3863, para. 63.

[4553] P-2241 stated that Mr Said would arrive at the OCRB at 6:00 and would go in and out of the OCRB during the day and sometimes return at 18:00 or 20:00: P-2241: CAR-OTP-2092-3851, at 3864, para. 67.

[4554] P-2241 stated that she did not eat [REDACTED]: P-2241: CAR-OTP-2092-3851, at 3865, para. 72. *See also* P-2239: CAR-OTP-2104-0918, at 0934-0935, para. 75.

[4555] P-2241: CAR-OTP-2092-3851, at 3864-3865, paras 65, 73.

of the OCRB building, near the front entrance gate.[4556]

1554. P-2241 stated that while sitting in the courtyard, they could see Seleka members 'bringing prisoners to [the] OCRB' every day, 'as of 18h00' and that they would bring three to four of them in a vehicle and beat them immediately upon arrival.[4557] P-2241 gave evidence about one occasion when Seleka members took a detainee out of a cell and beat him until his arms were hanging next to his body as if they were paralysed.[4558]

1555. P-2241 recalled being questioned on three occasions. First, she stated that a male police officer asked for the personal details of all three female detainees a few days after P-2241's arrival at the OCRB.[4559] The second occasion P-2241 recalled was when a female police officer [REDACTED] asked her 'why [she] had been arrested' and noted her account on a piece of paper.[4560] As regards the third, P-2241 gave evidence that Mr Said came to see her, when she had been detained for a week, and told her that he was supposed to interview her but was [REDACTED] and that he would take P-2241 to the prosecutor to be interviewed.[4561]

1556. P-2241 recalled that, two days later, Mahamat Said took her and other male detainees to the prosecutor's office in a vehicle.[4562] P-2241 recalled that, at the prosecutor's office, in

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[4556] P-2241 stated that this happened after a few days of her arrival at the OCRB; a Seleka member at the OCRB in a leadership role asked the Seleka members to allow the [REDACTED] detainees to spend some time [REDACTED] every day and he was the one who warned them (the [REDACTED] detainees) to not walk around in the yard and not talk to anyone: P-2241: CAR-OTP-2092-3851, at 3865, para. 74.
[4557] P-2241: CAR-OTP-2092-3851, at 3865, paras 75.
[4558] P-2241 clarified that while she could not see the beatings as they happened behind the toilets, she could hear the sound of the beatings and his screams and saw the Seleka members taking this detainee back to one of the cells in the OCRB courtyard. She stated that she could not describe the Seleka members who were beating this detainee, but she saw this person the next morning in the OCRB courtyard with his arms and hands dangling and overheard him telling his family what had happened. *See* P-2241: CAR-OTP-2092-3851, at 3865-3866, para. 75.
[4559] P-2241 testified that the police officer did not introduce himself, that he was older and wore ranks but that she did not know what they represented, and that she never saw him again: P-2241: CAR-OTP-2092-3851, at 3866, para. 77.
[4560] P-2241: CAR-OTP-2092-3851, at 3866-3867, para. 78. The Defence argues that the fact that a police officer took notes of P-2241's account shows there was information to be recorded and by giving this evidence, P-2241 concedes that she knew the reasons for her arrest: Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 534. The Chamber does not find any indication in P-2241's evidence that the account she would have given in response to the police officer's question necessarily involved explaining the reasons for her purported arrest and rejects this argument as speculative.
[4561] P-2241: CAR-OTP-2092-3851, at 3868, paras 83-84.
[4562] P-2241 stated that armed Seleka wearing military uniforms sat in the back of the pick-up to guard her and the other three or four male prisoners: P-2241: CAR-OTP-2092-3851, at 3868, para. 88; P-2241: T-048, p. 52. There is no indication in P-2241's evidence that she knew these other male detainees with whom she was brought to the prosecutor's office. As regards how many male detainees accompanied her, P-2241 stated that there were four in her prior recorded testimony and three in her testimony in court. The Chamber considers this inconsistency to be minor and to have no impact on the credibility of her account concerning the visit to the prosecutor's office.

Mr Said's presence, the prosecutor interviewed her and the others[4563] asking her why she had been arrested and she explained the circumstances of her arrest.[4564] P-2241 stated that she was never informed of the reason for her arrest and detention, although she asked the prosecutor for this information several times.[4565] P-2241 stated that the prosecutor told her that [REDACTED] had been informed of her case and that the decision was his to make, and that she would be taken back to the OCRB pending this decision.[4566] P-2241 stated that the prosecutor did not ask her if she needed a lawyer, she did not have to sign any document and did not receive any document related to her arrest or detention.[4567] P-2241 recalled that the prosecutor released the male prisoners whom Mr Said had brought to the prosecutor's office, but did not release her and Mr Said subsequently brought her back to the OCRB.[4568]

xi. Alleged mistreatment of other detainees

1557. The Prosecution alleges, based on the testimony of P-2239, that the Seleka tied an older man who was detained in the underground cell at the OCRB in the *arbatachar* manner and severely beat him.[4569] P-2239 testified that he overheard an older man in the OCRB courtyard talking to his relatives about having been tied in the 'arbatacha' manner and beaten with a wooden bat, and could see that this man could hardly move or lift his arms, which were hanging next to his body.[4570] He stated that he heard other prisoners say that he was detained in the underground cell but did not explain who told him this or how they knew that he was in the underground cell.[4571] On the basis of P-2239's evidence, the Chamber is satisfied that during his detention at the OCRB, he saw at least one person, detained at the OCRB, who had been physically mistreated to such an extent that his limbs were paralysed. Further, noting that P-2239 did not directly see the physical mistreatment of this detainee and that detainees were transferred between different

[4563] P-2241 stated that she did not know the name of the prosecutor but stated that [REDACTED]: P-2241: CAR-OTP-2092-3851, at 3869, para. 89; P-2241: T-048, pp. 38, 52. The Chamber recalls its evidentiary analysis regarding the [REDACTED]: *see* above para. [REDACTED].
[4564] P-2241: CAR-OTP-2092-3851, at 3869, para. 92.
[4565] P-2241: CAR-OTP-2092-3851, at 3869, paras 90, 92-93.
[4566] P-2241: CAR-OTP-2092-3851, at 3869, paras 90, 92.
[4567] P-2241: CAR-OTP-2092-3851, at 3869, para. 91.
[4568] P-2241: CAR-OTP-2092-3851, at 3869, paras 91, 93.
[4569] Prosecution Trial Brief, ICC-01/14-01/21-359-Red, paras 253, 290, n. 882; Confirmation of Charges Decision, ICC-01/14-01/21-218-Red, p. 57.
[4570] P-2239: CAR-OTP-2104-0918, at 0931, para. 57. P-2239 gave evidence that throughout his detention at the OCRB, he saw other prisoners in the same state, who he assumed had undergone the same treatment. He also stated that he had heard other detainees say that the man was detained in the underground cell at the OCRB.
[4571] P-2239: CAR-OTP-2104-0918, at 0931, para. 57.

detention sites,[4572] the Chamber could not determine the location of the mistreatment based on the evidence. Therefore, the Chamber was not satisfied that this mistreatment took place at the OCRB or at the hands of the OCRB Seleka.

1558. The Prosecution alleges, based on the testimony of P-2400, that Seleka members severely beat a detainee on Mr Said's order.[4573] P-2400 testified that he saw Mr Said order the OCRB Seleka members to tie up and beat a newly arrived prisoner, following which the OCRB Seleka tied the prisoner up and beat him with sticks for 15 to 20 minutes while he begged for mercy.[4574] The Chamber is satisfied on the basis of this evidence that a prisoner was beaten as described.

xii. Payments to secure release from the OCRB

1559. All three witnesses (P-2400, P-2241 and P-2239) testified that they had to pay money to secure their release from the OCRB. P-2400 stated that, after [REDACTED], Colonel Mahamat Said told him that, since there were no standing allegations against him (P-2400), he would be released.[4575] P-2400 stated that he asked Colonel Mahamat Said to issue him a release document proving his release and 'the reason for [his] arrest', and Colonel Mahamat Said did so.[4576]

1560. P-2239 stated that [REDACTED] decided to pay 500,000 CFA for his release because

[4572] The Chamber notes in this regard that P-2400 was tied in the *arbatachar* manner at Camp de Roux before being transferred to the OCRB. In respect of other detainees being transferred between sites, the Chamber recalls its findings in respect of Incident C and the transfer of P-2692 between Camp Kassai and the OCRB. *See* above paras 943-944.
[4573] Prosecution Trial Brief, ICC-01/14-01/21-359-Red, para. 253; Confirmation of Charges Decision, ICC-01/14-01/21-218-Red, p. 57, para. 29(q).
[4574] P-2400: CAR-OTP-2104-0424, at 0435-0436, para. 55. The Defence points to P-2241's evidence that she never saw Mr Said bring prisoners to the OCRB, beat them up or give orders to beat them: Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 540. The Chamber notes P-2241's evidence that during the day she was detained in a room with a window facing the cellblock at the back of the OCRB courtyard, from which she was able to observe Seleka members bringing detainees in and out of the cells, beating them and tying them up and from which she could also see Mr Said in the OCRB courtyard during the day. The Chamber also notes P-2241's evidence that the beatings she observed from sitting [REDACTED] took place behind the toilets and she could not directly observe them, although she was able to 'hear the sound of the beatings and his screams while he was being beaten'. *See* above paras 1551-1555. The Chamber considers P-2400 to be generally credible and there were no indications in his evidence that this aspect of his testimony was not truthful. The Chamber further considers that given that they had been detained separately, it is plausible that P-2241 was not in a position to observe the same events in the OCRB courtyard as P-2400 could at this time. Accordingly, the Chamber is satisfied, based on P-2400's evidence, that Mr Said ordered Seleka members to tie up and beat a newly arrived detainee at the OCRB.
[4575] P-2400: CAR-OTP-2104-0424, at 0437, para. 60. *See also* P-2400: CAR-OTP-2104-0424, at 0435, para. 52; P-2239: CAR-OTP-2104-0918, at 0935-0936, para. 82.
[4576] P-2400 stated that Colonel Mahamat Said wrote a note stating 'Release [REDACTED]', signed with Colonel Mahamat Said's name but that he (P-2400) had since lost the note: P-2400: CAR-OTP-2104-0424, at 0437, para. 60.

'[his] case was not progressing'.[4577] P-2239 testified that a Seleka Colonel at the OCRB told [REDACTED] that the sum was insufficient because his case was so 'sensitive and complicated', and therefore [REDACTED] decided to increase the amount for his release.[4578] There is no indication in the evidence that any charges were ever presented against P-2239 or that he was interviewed by the prosecutor.

1561. P-2241 stated that her [REDACTED] paid Mr Said 500,000 CFA for her release but he did not release her.[4579] P-2241 testified that her [REDACTED] then paid another individual 250,000 CFA to broker her release, which was also unsuccessful.[4580] P-2241 testified that after two weeks and two days of detention at the OCRB she became ill [REDACTED] and her [REDACTED] brought her medication.[4581] P-2241 gave evidence about how, when she was not getting better, [REDACTED].[4582]

1562. There was no evidence concerning whether [REDACTED] had to pay money to be released.

1563. P-2337 stated that P-2400 was released when the Seleka finally left the OCRB.[4583] P-2239 also recalled being released when the Seleka finally left the OCRB,[4584] and that [REDACTED] was still at the OCRB when he (P-2239) left and did not know if [REDACTED] was released.[4585]

[4577] P-2239: CAR-OTP-2104-0918, at 0933, para. 69.
[4578] P-2239 stated that he did not know the amount of money that [REDACTED] paid for his release: P-2239: CAR-OTP-2104-0918, at 0934, para. 74.
[4579] P-2241: CAR-OTP-2092-3851, at 3871, para. 98.
[4580] P-2241: CAR-OTP-2092-3851, at 3871, para. 99. *See also* P-2239: CAR-OTP-2104-0918, at 0933, para. 69. Considering P-2241 and P-2239's evidence together, the Chamber is satisfied that P-2241's [REDACTED] paid 500,000 CFA to Mr Said and another individual 250,000 CFA.
[4581] P-2241: CAR-OTP-2092-3851, at 3870, para. 94; P-2241: T-048, p. 55.
[4582] P-2241 added that she saw Mr Said [REDACTED] saying that he would show it to the prosecutor who would inform [REDACTED] and justify why she was not returned to the OCRB: P-2241: CAR-OTP-2092-3851, at 3870, para. 95. P-2241 testified about the [REDACTED] she received at the [REDACTED] where she was accompanied by her [REDACTED]: P-2241: T-048, pp. 55-56.
[4583] P-2337: CAR-OTP-2104-0411, at 0419, paras 38, 40. P-2400 stated that he was detained at the OCRB for one week and five or six days: P-2400: CAR-OTP-2104-0424, at 0436, para. 59; P-2400: T-031, p. 13. The Chamber recalls its evidentiary analysis indicating that the Seleka apprehended P-2400 shortly after [REDACTED] August 2013. The Chamber considered that P-2400's estimates of one week and five or six days correspond to the end of August 2013 when the OCRB closed. *See* above paras 620, 686.
[4584] P-2239 also recalled seeing, from the entrance of the OCRB courtyard, Michel Djotodia, Josué Binoua and Nouradine Adam arriving at the National Directorate of National Police and heard about a meeting to discuss the withdrawal of the Seleka from the OCRB: P-2239: CAR-OTP-2104-0918, at 0935, para. 79.
[4585] P-2239: CAR-OTP-2104-0918, at 0936, para. 80. P-2400 and P-2337 gave evidence that P-2400 was released together with some of the other detainees, with P-2400 stating that he was released together with P-2241, P-2239 and [REDACTED]: P-2400: CAR-OTP-2104-0424, at 0437, para. 61; P-2337: CAR-OTP-2104-0411, at 0419,

xiii. Harm suffered

1564. As regards the harm P-2241 continues to suffer as a result of her detention at the OCRB,[4586] P-2241 testified that when she thinks of what she went through, she feels 'very, very uncomfortable', [REDACTED] she endured 'upsets [her] greatly' and she thinks she might need psychological care.[4587] P-2241 stated that her [REDACTED] was also traumatised at the time because [REDACTED] knew what happened to people detained by the Seleka and [REDACTED] spent a lot of money trying to ensure her release.[4588]

1565. As regards the harm P-2400 continues to suffer as a result of his detention at the OCRB,[4589] P-2400 testified that he continues to suffer from the torture he was subjected to and from headaches due to the injuries inflicted on his head.[4590] P-2400 testified that his detention has had many consequences, in particular that he is much less active than before and, despite having had some money in 2013, he has not been able to regain the standard that he had before.[4591]

1566. As regards the harm P-2239 continues to suffer as a result of his detention at the OCRB,[4592] P-2239 testified that his arrest deprived him of being with his baby,

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paras 38, 40. The Chamber considered it clear from P-2337 and P-2239's evidence that P-2400 and P-2239 were released on the same day and on the day that the Seleka left the OCRB. However, while it is clear that P-2241 and [REDACTED] were released from detention, the date thereof is not apparent from witness accounts. As regards [REDACTED], reading P-2400 and P-2239's accounts together, the Chamber considers that, at the very least, [REDACTED] was at the OCRB until its closure. As regards P-2241, the Chamber recalls her evidence that the doctor did not release her when Mr Said brought her [REDACTED] at least two weeks and two days from the date of her detention at the OCRB: P-2241: CAR-OTP-2092-3851, at 3870, paras 94-95. Based on her evidence concerning the duration of her detention at the OCRB and the date on which the Seleka apprehended her (shortly after [REDACTED] August 2013), the Chamber considers that P-2241 would have been in detention at the OCRB at the very least until the end of August 2013.

[4586] The Chamber notes the submissions of the CLRV in this respect: CLRV Closing Brief, ICC-01/14-01/21-1028-Red2, paras 146, 148.

[4587] P-2241: T-048, pp. 17-18.

[4588] P-2241: T-048, p. 18.

[4589] The Chamber notes the submissions of the CLRV in this respect: CLRV Closing Brief, ICC-01/14-01/21-1028-Red2, para. 146.

[4590] P-2400: CAR-OTP-2104-0424, at 0437, para. 63. The Chamber notes that at Camp de Roux, Seleka members beat P-2400, tied him up in the *arbatachar* manner and gave a blow to his head, as a result of which he bled to the point of soaking his clothes. The Chamber considers that P-2400 received no medical treatment for his injuries for the entire duration of his detention at the OCRB. In assessing the long-term impact of P-2400's detention at the OCRB on his health, the Chamber has borne in mind the fact that these injuries were inflicted on him in a location outside the OCRB, but that he was detained in deplorable conditions in the OCRB without medical attention for a week and five days thereafter.

[4591] P-2400: T-030, p. 50.

[4592] The Chamber notes the submissions of the CLRV in this respect: CLRV Closing Brief, ICC-01/14-01/21-1028-Red2, para. 146.

[REDACTED].[4593]

o) Incident R

1567. In respect of Incident R, the Chamber considered the testimony of [REDACTED] and [REDACTED], Seleka insiders, who gave evidence on individuals allegedly arrested and detained in the underground cell of the OCRB. The Chamber also considered the testimony of P-2240, but concluded, for the reasons explained above, that his evidence was unreliable.[4594]

1568. [REDACTED].[4595] [REDACTED] testified that the Seleka arrested a man called [REDACTED],[4596] who was a Christian,[4597] on the allegation that he 'handed out pamphlets', 'was preparing people to enter into the Anti-Balaka movement to fight the Seleka' and 'wanted to organise the Anti-Balaka to attack the Seleka.'[4598] [REDACTED] added that the Seleka considered [REDACTED] 'as a founding member of the Anti-Balaka.'[4599]

1569. [REDACTED].[4600] [REDACTED],[4601] he observed [REDACTED] being taken to the underground cell.[4602] [REDACTED].[4603] Nevertheless, considering [REDACTED], the Chamber is satisfied that [REDACTED]'s testimony that [REDACTED] was detained in the underground cell was reliable.[4604]

[4593] P-2239: T-122, pp. 48-49. P-2239 recalled that, during his detention, the Seleka ransacked his house and took his car, [REDACTED] as well as a lot of other belongings. On the basis of his testimony, the Chamber could not conclude whether these acts were attributable to Mr Said or the OCRB Seleka generally.
[4594] *See* above paras 185-193.
[4595] [REDACTED].
[4596] The Chamber notes the variation in spelling between the Decision on the Confirmation of Charges, referring to the man as '[REDACTED]', and the subsequent briefs submitted by the Prosecution, referring to him as '[REDACTED],' which is consistent with the spelling in [REDACTED]'s testimony. The Chamber considers the variation in spelling to be insignificant and that it is clear that they refer to the same individual.
[4597] [REDACTED].
[4598] [REDACTED]. [REDACTED] described [REDACTED] as a '[REDACTED]' and '[REDACTED]': [REDACTED].
[4599] [REDACTED]. Based on the Chamber's assessment of the evidence regarding the Seleka's knowledge (or lack thereof) of the existence of the Anti-Balaka before September 2013 and the lack of clarity as to whether the name Anti-Balaka had been adopted by June 2013, the Chamber considers [REDACTED]'s reference to the 'Anti-Balaka' to reflect a level of knowledge and a perspective of events that he acquired subsequently rather than information that he would have had at the time. *See* above para. 387.
[4600] [REDACTED].
[4601] [REDACTED], referring to photograph of the OCRB, CAR-OTP-2033-6871 ([REDACTED]), on which [REDACTED].
[4602] [REDACTED].
[4603] [REDACTED].
[4604] [REDACTED].

1570. [REDACTED] testified that on one occasion, the Seleka brought [REDACTED] to the rear courtyard of the OCRB and beat him to obtain information on 'the names of his accomplices, the places in which they gathered, and to find out how they organised themselves to attack the Seleka'.[4605] [REDACTED] described the manner in which [REDACTED] was beaten, stating that he observed the Seleka whipping [REDACTED] several times while he was bound using the *arbatachar* method.[4606] According to [REDACTED], the *arbatachar* method was used to make people talk or admit their guilt as soon as possible before they lost use of their hands and feet.[4607] [REDACTED] added that 'when you're tied up like this and you don't want to talk, you receive several lashes of the whip in order to create more pain and make you speak faster.'[4608] [REDACTED] was unable to say how long [REDACTED] was tied up but recalled that at some point, the detainee agreed to talk, was untied and brought into the building in order to speak to the people in charge.[4609] [REDACTED] stated that he did not know what information [REDACTED] provided, specifying that the people detained in the basement were outside the scope of his role and authority.[4610]

1571. According to [REDACTED], Colonel Said had put an OCRB Seleka member, Commander Noiro, in charge of guarding the underground cell[4611] and it was Noiro who decided when the detainees of the underground cell could 'go out and when they can eat.'[4612]

1572. As regards the allegations concerning a person called [REDACTED], [REDACTED] recalled that the OCRB Seleka detained [REDACTED] in the basement cell of the

[4605] [REDACTED].
[4606] [REDACTED].
[4607] [REDACTED].
[4608] [REDACTED].
[4609] [REDACTED].
[4610] [REDACTED].
[4611] [REDACTED] and [REDACTED] both testified that Noiro was responsible for guarding the underground cell and that he was the younger brother of [REDACTED], [REDACTED]. [REDACTED]; [REDACTED]. On the basis of the foregoing, the Chamber is satisfied that [REDACTED] and [REDACTED] refer to the same individual called Noiro and that he was in charge of guarding the underground cell.
[4612] [REDACTED].

OCRB.[4613] [REDACTED] testified that [REDACTED][4614] [REDACTED].[4615] [REDACTED] stated that Yaya wanted to get [REDACTED] to confess, 'to get him to indicate to him where the Balaka were towards the south, and who was behind it all.'[4616]

1573. [REDACTED] stated that, on one occasion, he witnessed the OCRB Seleka removing [REDACTED], who had his feet bound together, from the basement cell, and beating him in order to make him confess.[4617] [REDACTED] specified that after [REDACTED]was untied, he was put in an above ground cell [REDACTED].[4618] The witness noted that although [REDACTED] had been moved, he was still under Noiro's authority because 'he came from the basement'.[4619]

1574. [REDACTED] further testified that [REDACTED].[4620] The witness stated that [REDACTED].[4621] [REDACTED] recalled that at around 23:00 that night, Noiro, along with some OCRB Seleka, tied [REDACTED] in the *arbatachar* manner and beat him with a whip.[4622] The witness further stated that while several Seleka members, all of whom were under the command of Colonel Said, were present during [REDACTED]'s mistreatment, he could no longer remember exactly who was there, especially as it was night-time.[4623] [REDACTED].[4624] [REDACTED] testified that [REDACTED] spent that night bound in the *arbatachar* manner and was in a 'very weakened' physical state when he was untied in the morning such that he had to be carried back to the cell.[4625]

[4613] [REDACTED].
[4614] [REDACTED] testified that Commander Yaya's full name was Yaya Soumayele, he was part of the Rounga ethnic group, and that he was a former soldier who was in the army before joining the Seleka: [REDACTED]; [REDACTED] also noted that Commander Yaya was later detained due to his alleged involvement in the escape of the Yalo Brothers: [REDACTED]. The Chamber notes that various aspects of this testimony correspond to information on the record about Yaya and is therefore satisfied that the individual referred to is Yaya Soumayele. *See, for example*, P-1432: CAR-OTP-2073-0743, at 0750, para. 47; [REDACTED]; [REDACTED]; [REDACTED].
[4615] [REDACTED].
[4616] [REDACTED]. Based on the Chamber's assessment of the evidence regarding the Seleka's knowledge (or lack thereof) of the existence of the Anti-Balaka before September 2013 and the lack of clarity as to whether the name Anti-Balaka had been adopted by June 2013, the Chamber considers [REDACTED]'s reference to the 'Anti-Balaka' to reflect a level of knowledge and a perspective of events that he acquired subsequently rather than information that he would have had at the time. *See* above para. 387.
[4617] [REDACTED].
[4618] [REDACTED].
[4619] [REDACTED].
[4620] [REDACTED].
[4621] [REDACTED].
[4622] [REDACTED].
[4623] [REDACTED].
[4624] [REDACTED].
[4625] [REDACTED].

[REDACTED].[4626] The witness recalled that Commander Yaya later released [REDACTED].[4627]

1575. Although [REDACTED] could not recall how long he worked at the OCRB under Colonel Said's command, he noted that the events relating to the two detainees described above happened after Colonel Said's arrival at the OCRB and before [REDACTED], [REDACTED] the day after the escape of the Yalo brothers.[4628] The Chamber recalls that other evidence on record establishes that the Yalo brothers had escaped on 10 June 2013.[4629] The Chamber is, therefore, satisfied that the events relating to the detention and mistreatment of [REDACTED] and [REDACTED] took place between Mr Said's arrival at the OCRB and 10 June 2013, before Mr Said was detained at the SRI.

1576. The Chamber now turns to the allegations concerning persons named [REDACTED] and [REDACTED]. [REDACTED], a Seleka insider witness, testified that 'based on what [he knew] and according to what [he] observed', Colonel Mahamat Sallet took a young person named [REDACTED] to the underground cell.[4630] [REDACTED] said that the Seleka had arrested [REDACTED] and placed him in the underground cell 'because [REDACTED]'.[4631] [REDACTED] also stated that, according to what he knew and observed, the Seleka put a young man from the 8th arrondissement of Bangui named [REDACTED] in the underground cell because he 'was alleged to have brutalised [REDACTED]'.[4632]

1577. The Chamber notes that [REDACTED],[4633] [REDACTED].[4634] [REDACTED],[4635] [REDACTED]. On the basis of the foregoing, the Chamber determines that

[4626] [REDACTED].
[4627] [REDACTED].
[4628] [REDACTED]. The fact that these events took place subsequent to the arrival of Mr Said at the OCRB is also confirmed by the involvement of Noiro, who [REDACTED] stated was put in charge of guarding the underground cell by Colonel Said: [REDACTED].
[4629] *See* above para. 1108.
[4630] [REDACTED]. *See* [REDACTED] referring to photograph, CAR-OTP-2114-0323, annotated version, CAR-REG-0002-0132 identifying Colonel Mahamat Sallet as the individual in the centre of the photo wearing sandals and a badge around his neck (annotated number 1); *see also* [REDACTED], referring to photograph, CAR-OTP-2114-0323, annotated version, CAR-REG-0002-0049 identifying Mahamat Sallet Adoum Kette (annotated number 2).
[4631] [REDACTED].
[4632] [REDACTED].
[4633] [REDACTED].
[4634] [REDACTED].
[4635] [REDACTED], referring to photograph of OCRB, CAR-OTP-2033-6871 ([REDACTED]); [REDACTED], referring to photograph of OCRB, CAR-OTP-2033-6871 ([REDACTED]).

[REDACTED] had a sufficient basis to know of [REDACTED] and [REDACTED]'s detention in the underground cell.

1578. Nonetheless, the Chamber received insufficient evidence as to the reasons for [REDACTED] and [REDACTED]'s detention. The Chamber notes in this regard that it treats [REDACTED]'s testimony regarding [REDACTED] with caution, particularly insofar [REDACTED]. Accordingly, it is not satisfied that the reasons outlined by [REDACTED] for the detention of these individuals were the real reasons.

1579. Regarding the timing of [REDACTED] and [REDACTED]'s detention, the Chamber recalls, [REDACTED], that [REDACTED] and that their detention would have occurred during this time.[4636]

1580. As regards the allegations concerning a person called [REDACTED], the Chamber has not relied on P-2240 who gave evidence about [REDACTED] as it found his account to be unreliable.[4637] [REDACTED], who had purportedly informed P-2240 about [REDACTED], did not provide evidence regarding individuals detained in the underground cell.'[4638]

1581. In light of the above, the Chamber finds that there is insufficient evidence to support any factual or legal findings relating to the arrest, mistreatment, or detention in the underground cell of a person named [REDACTED].

D. LEGAL FINDINGS

1. Legal findings on charged incidents

a) Introduction

1582. At the outset, the Chamber notes that it did not enter factual findings in relation to Incidents E, F, K and P and the allegations regarding [REDACTED] set out in Incident R, as it was not satisfied on the basis of the evidence that the allegations relevant to these incidents had been established.[4639] Furthermore, for the reasons set out in the section titled 'Scope of the Charges', the Chamber dismissed the charges in relation to

[4636] *See* above para. [REDACTED].
[4637] *See* above paras 185-193.
[4638] [REDACTED].
[4639] *See* above paras 120-125, 950 (Incident E), 951, 1245-1246 (Incident F), 989, 1353-1360 (Incident K), 285-297, 1034 (Incident P), 1074, 1581-1582 (Incident R).

Incident D.[4640] Accordingly, these allegations are not considered for the purposes of the legal findings.

1583. In relation to the remaining incidents, the Chamber deems it necessary to clarify a number of issues regarding the scope of Mr Said's responsibility as set out below.

i. Uncharged acts of killing

1584. The Chamber notes that a number of the incidents charged by the Prosecution involve acts of killing, which were not charged as murder for various reasons, specifically the killing of [REDACTED] (Incident G)[4641] and the killing of Oswald Sanze (Incident J).[4642] In accordance with article 74(2) of the Statute, the Chamber considers below only the crimes charged by the Prosecution and confirmed by the Pre-Trial Chamber.

ii. Detention and mistreatment of detainees at other sites

1585. The Chamber notes that a number of persons detained at the OCRB were initially detained for a period of time at other locations and, in some cases, subjected to mistreatment at these locations before and/or after they were under the custody of the OCRB Seleka, including Mr Said.

1586. This concerns the following individuals: (i) P-2962, who was tied using the *arbatachar* method and severely beaten in Camp Kassai and detained for one night by the Seleka stationed there (Incident C);[4643] (ii) the 16 persons detained in relation to their alleged involvement in the distribution of flyers, who were mistreated and detained for a period of time at Camp de Roux before they were transferred to the OCRB and, after they left the OCRB, were detained for a period of time at Ngaragba prison (Incident H);[4644] (iii) the three men who were detained for at least two days at Sapeurs-Pompiers before being

[4640] *See* above paras 14-16.
[4641] In relation to the killing of [REDACTED], the Prosecution stated that '[t]his incident is not charged as murder as a crime against humanity or as a war crime because it cannot be sufficiently established on the basis of the available evidence that SAID had the requisite intent and knowledge that [REDACTED] was to be killed or would be killed by the OCRB Seleka in the ordinary course of events': Prosecution Pre-Confirmation Brief, ICC-01/14-01/21-155-Red3, n. 367, Prosecution Pre-Confirmation Brief, ICC-01/14-01/21-155-Conf, n. 367.
[4642] In relation to the killing of Oswald Sanze under Incident J, the Prosecution stated that 'SAID is not charged with the murder of Oswald Sanze as a crime against humanity or as a war crime for this incident as there is insufficient evidence regarding his intent and knowledge that Sanze was to be killed or would have been killed in the ordinary course of events': Prosecution Pre-Confirmation Brief, ICC-01/14-01/21-155-Red3, n. 378, Prosecution Pre-Confirmation Brief, ICC-01/14-01/21-155-Conf, n. 378.
[4643] *See* above paras 943-945.
[4644] *See* above paras 956-965, 970-971.

transferred to the OCRB (Incident I);[4645] (iv) P-2519, who was detained at [REDACTED] after his detention at the OCRB (Incident L);[4646] (v) the four men who were detained for a period of time at the OCRB Ngouciment (Incident M);[4647] and (vi) P-2400, who was tied using the *arbatachar* method, severely physically mistreated and detained together with three other persons for a period of time at Camp de Roux by the Seleka (Incident Q).[4648]

1587. The present case is limited to Mr Said's criminal responsibility. Given the charges confirmed by the Pre-Trial Chamber, the Chamber considers the scope of Mr Said's responsibility to be restricted to the alleged targeting of perceived François Bozizé supporters through the commission of the charged crimes by Mr Said and the other co-perpetrators at the OCRB.[4649] Mr Said is not alleged to have been responsible for the detention and mistreatment of individuals at other sites, or by other members of the Seleka.[4650] Therefore, for the purpose of the legal findings below, the Chamber focuses on the period when the detainees were at the OCRB, or in the custody or under the control of Mr Said and the other co-perpetrators (including the OCRB Seleka).

1588. Nonetheless, the Chamber notes that the agreement or common plan alleged to have existed between Mr Said and the other co-perpetrators regarding operations at the OCRB (to target perceived Bozizé supporters through the commission of the charged crimes at this location) was reflective of a broader Seleka policy to attack the civilian population perceived to support François Bozizé.[4651] The Chamber notes that, in the execution of this policy, the Seleka transferred prisoners between various bases and detention sites in Bangui and these bases coordinated their activities.[4652] The extent to which detainees were transferred to and from the OCRB (as set out above) shows that the OCRB was part

[4645] *See* above paras 973-974.
[4646] *See* above para. 996.
[4647] *See* above paras 999-1001.
[4648] *See* above paras 1037-1043.
[4649] Confirmation of Charges Decision, ICC-01/14-01/21-218-Red, p. 29, para. 80, referring to incidents (c), (h), (i), (p), and (q) addressed in the present judgment (para. 33(d), (i), (j), (q), (r), (s) of the Document Containing the Charges, ICC-01/14-01/21-144-Corr2). The Pre-Trial Chamber took the view that the Prosecution did not charge Mr Said for crimes allegedly committed at those locations and therefore only addressed events that allegedly took place in the OCRB during the relevant period.
[4650] The Chamber notes that, although it received some evidence to the effect that Mr Said was the chief of all the other OCRB antennae commanders (P-2015: T-024, p. 7), the Prosecution has not alleged that Mr Said was responsible for crimes committed at these locations and has not clarified the relationship between the OCRB Central and the antennae locations.
[4651] *See* above para. 853 *et seq*. (regarding the organisational policy) and below para. 1767 (regarding the common plan).
[4652] *See* above paras 617, 644.

of this broader operation.

1589. Therefore, to the extent that events related to the arrest and detention of the transferred detainees at other locations or by other members of the Seleka assist in determining the reasons that these individuals were targeted and detained and whether their detention was lawful, the Chamber will take these into account for the purpose of determining whether they were targeted on impermissible grounds and/or the lawfulness of their detention at the OCRB. In cases where detainees were mistreated by Seleka at other bases before arriving at the OCRB and this mistreatment was continued at the OCRB, the Chamber will also take into account the condition in which the detainees arrived at the OCRB in assessing the severity of their subsequent mistreatment at the OCRB.

iii. Absence of Mr Said from the OCRB

1590. The Chamber notes that Mr Said himself was detained at the SRI/SERD following the escape of the Yalo brothers and that it cannot be established that he was in charge of the OCRB during the period from 10 June 2013 to 26 June 2013 at the latest.[4653] Therefore, the Chamber cannot find that Mr Said was responsible as a co-perpetrator for the crimes that occurred during this time. The Chamber has considered the impact this has on the incidents that have been established as having taken place around this time. In view of the fact that the elements of the crimes charged require an assessment of gravity or severity of conduct or suffering, the Chamber has excluded the period of time when Mr Said was detained at the SRI/SERD from its consideration of these incidents.

1591. Specifically, in relation to Incident B, the Chamber notes that P-0481 was detained at the OCRB following the escape of the Yalo brothers (which took place on 10 June 2013),[4654] and that, approximately [REDACTED], he was interrogated by Nouradine Adam, and beaten and burned by members of the OCRB Seleka.[4655] The Chamber has established that P-0481 left the OCRB on [REDACTED] 2013.[4656] Accordingly, in assessing the crimes charged in respect of this incident, the Chamber considers only the period from [REDACTED] 2013, when Mr Said would have been in charge of the OCRB. This means that the Chamber does not consider the Prosecution's charge of torture in respect of this

[4653] *See* above para. 912.
[4654] *See* above paras 937-938.
[4655] *See* above para. 940.
[4656] *See* above para. 941.

incident as it cannot determine that the underlying conduct took place when Mr Said was in charge of the OCRB. For the same reasons, in assessing the charged crime against humanity of other inhumane acts, the Chamber will not consider its finding that P-0481's hands were tied during the first [REDACTED] of his detention, and that he and another detainee were forced to dispose of the bodies of a number of persons.[4657]

1592. In relation to Incident C, the Chamber notes that P-2692 was first detained at the OCRB on or about [REDACTED] June 2013 (having been transferred from Camp Kassai where he was detained for one night) and was detained for a second time from on or about [REDACTED] June 2013 until on or about [REDACTED] July 2013.[4658] Accordingly, in assessing the crimes charged in respect of this incident, the Chamber considers only the period of detention from 27 June 2013 to on or about [REDACTED] July 2013, when Mr Said was in charge of the OCRB.

1593. In relation to Incident R, the Chamber notes that it found that the Seleka detained [REDACTED] and [REDACTED] in the underground cell for an unknown period of time around June 2013.[4659] As the Chamber cannot determine the exact dates of their detention and whether Mr Said was in charge of the OCRB at the relevant time, it does not consider the allegations in respect of these persons for the purposes of its legal findings below.

1594. The above notwithstanding, the Chamber recalls its findings that during the time that Mr Said was in charge of the OCRB, 'everything went through him' and he was informed of all the detainees present and controlled access to the cells.[4660] The Chamber finds that Mr Said was responsible for the functioning of the OCRB both before and after his imprisonment and there is no indication that the functioning of the OCRB changed during the time that he was absent.

1595. Therefore, in the context of Incidents B and C, respectively, to the extent that facts related to the detention of P-0481 and P-2692 at the OCRB prior to Mr Said's return assist in determining the reasons that these individuals were targeted and detained and whether there was a lawful basis for their detention, the Chamber will take these facts into account

[4657] *See* above para. 939.
[4658] *See* above paras 943-945, 947.
[4659] *See* above para. 1073.
[4660] *See* above paras 913-915.

for the purpose of determining the lawfulness of their continued detention during the time when Mr Said resumed his role and functions at the OCRB. In cases where detainees were mistreated, the Chamber will also take into account the condition of the detainees when Mr Said returned to the OCRB in assessing the severity of their subsequent mistreatment during the time that he was responsible for the OCRB. Finally, the Chamber has considered its findings in relation to the treatment of P-2692 at the OCRB for the purposes of its determinations as to the involvement of the co-perpetrators in relation to activities in the OCRB and their participation in the implementation of the common plan.

b) Count 1 – imprisonment or other severe deprivation of physical liberty

1596. Under Count 1, Mr Said is charged with imprisonment or other severe deprivation of physical liberty as a crime against humanity, pursuant to article 7(1)(e) of the Statute, in relation to all incidents.[4661]

i. First and second elements: imprisonment or severe deprivation of liberty and gravity of the conduct

1597. The Chamber addresses the first and second elements of imprisonment or other severe deprivation of physical liberty as a crime against humanity together, namely that: (i) the perpetrator imprisoned one or more persons or otherwise severely deprived one or more persons of physical liberty; and (ii) the gravity of the conduct was such that it was in violation of fundamental rules of international law.

1598. Before the Chamber sets out its specific findings with respect to these elements incident by incident below, by way of background and context relevant to all of the incidents, it notes the following findings regarding the general operation of the OCRB.

1599. In relation to the assessment of whether the gravity of the conduct was such that it was in violation of fundamental rules of international law, the Chamber recalls its findings that, during the period relevant to the charges, the OCRB did not function as normal, that the presence of the police at the OCRB was purely ornamental and the Seleka did as they wanted.[4662] The Chamber recalls that the Seleka members at the OCRB routinely mistreated detainees physically and psychologically, and commonly tied detainees up

[4661] Confirmation of Charges Decision, ICC-01/14-01/21-218-Red, p. 60.
[4662] *See* above para. 931.

using the *arbatachar* method.[4663] The OCRB Seleka detained individuals in an underground cell, which was dark, cramped, dirty, insufficiently ventilated and covered in waste, and cells in the courtyard were overcrowded to such an extent that the detainees had difficulty breathing and had to take turns in lying down.[4664]

1600. The Chamber also found that the OCRB Seleka did not comply with lawful procedures governing arrest and detention and did not generally afford detainees at the OCRB procedural guarantees, namely, informing them of the reasons for their detention at the OCRB, providing them with legal assistance or producing them promptly before a competent authority.[4665] Relatives had to rely on word of mouth to find out that the Seleka had detained someone at the OCRB and the OCRB Seleka demanded payment from family members of detainee to secure their release.[4666] The OCRB Seleka were not answerable or accountable to the prosecutor, who was unable to carry out regular or frequent visits to the OCRB when the Seleka were based there.[4667]

1601. In its assessment of the incidents below, the Chamber also takes these findings into consideration insofar as they demonstrate that the OCRB was not a normally functioning detention centre at the time and there can be no presumption that detentions at this site were lawful. Nevertheless, the Chamber received evidence in relation to a limited number of incidents that proceedings were instituted against detainees or procedural steps were taken to potentially legitimise their detention, and the Chamber has scrutinised the evidence and the arguments of the Defence carefully in order to assess the lawfulness of the detention in those instances.

1602. The Chamber notes that in relation to some of the incidents below, the matters addressed in the interrogations to which the detainees were subjected may have allowed them to infer the reasons for the Seleka's interest in them. For the avoidance of doubt, the Chamber does not consider this to fulfil the legal requirement of informing the

[4663] *See* above para. 908.
[4664] *See* above paras 909-910.
[4665] *See* above para. 911.
[4666] *See* above para. 911. The Chamber notes the Defence's argument that payments of such nature, even if proven, do not demonstrate the existence of any international crime, and on the contrary, would be a practice of extortion under ordinary law and not within the jurisdiction of the Court. *See* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 431. The Chamber considers that, even if such payments were crimes 'under ordinary law', it does not preclude the Chamber in considering extortion as one of the factors in its assessment of whether detainees were lawfully detained at the OCRB.
[4667] *See* above para. 911.

individuals concerned of the reasons for their arrest or the lawful basis for their detention.

1603. The Chamber also recalls its finding that the Seleka used the OCRB as a facility to detain people perceived to be supporters of François Bozizé.[4668] The Chamber notes, however, that it also established that other persons were detained at the OCRB during the relevant period, including those allegedly involved in criminal conduct and Seleka members.[4669] Accordingly, in assessing each incident, the Chamber has had careful regard to the reasons for the detention of the relevant victims in assessing whether the detention was unlawful.

a. Incident A

1604. With respect to the first element of the crime against humanity of imprisonment or other severe deprivation of physical liberty, the Chamber finds that the OCRB Seleka imprisoned or otherwise severely deprived P-1289 of his physical liberty from the moment of his arrest by Mr Said at the Ledger Hotel on or about [REDACTED] May 2013 to the moment of his release [REDACTED].[4670]

1605. Turning to the second element of the crime, that the gravity of the conduct was such that it was in violation of fundamental rules of international law, the Chamber finds that P-1289 was targeted by the OCRB Seleka members because he was perceived to be a supporter of François Bozizé.[4671] The Defence argues that the reasons for P-1289's detention solely related to [REDACTED], and that they were not based on political, religious or ethnic grounds.[4672] The Chamber notes that this argument is based on P-1289's speculation as to Nouradine Adam's motivations for arresting him, which in his view had a [REDACTED] *and* a political element.[4673] The Chamber recalls that, immediately after P-1289 was apprehended, he was informed that he would be questioned about his work [REDACTED],[4674] and that he was subsequently questioned by Nouradine Adam on this topic the next day.[4675] The Chamber notes that it was not

[4668] *See* above para. 906.
[4669] *See* above para. 906.
[4670] *See* above paras 933, 935.
[4671] *See* above para. 933.
[4672] *See* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 419, referring to P-1289: CAR-OTP-2053-0359, at 0375, para. 94.
[4673] P-1289: CAR-OTP-2053-0359, at 0375, para. 95.
[4674] *See* above para. 934.
[4675] *See* above para. 935.

unusual for the Seleka to have [REDACTED] from persons perceived to be associated with François Bozizé.[4676] In this regard, the Chamber considers that the possibility that Nouradine Adam had an additional [REDACTED] motive for detaining P-1289 does not impact the Chamber's conclusion that his detention was politically motivated and unlawful.

1606. The Chamber considers that there was no indication that the Seleka members had obtained an arrest warrant for P-1289 or that he was caught in the act of committing a crime.[4677] The Chamber notes that P-1289 was denied the rights that generally accompany deprivation of liberty, such as the right to be informed of the legal basis for his arrest and detention, the right to inform his family that he had been taken into custody and there is no indication that he was afforded the right to a lawyer.[4678] The evidence shows that the Seleka members prevented friends and family members of P-1289 from seeing him once they arrived at the OCRB the next day and refused to inform them whether P-1289 was being held there.[4679] The Chamber further notes the circumstances of P-1289's release by Nouradine Adam (the threats, [REDACTED]) and considers these circumstances to be inconsistent with lawful detention.[4680]

b. Incident B

1607. With respect to the first element of the crime against humanity of imprisonment or other severe deprivation of physical liberty, the Chamber finds that members of the OCRB Seleka imprisoned or otherwise severely deprived P-0481 of his physical liberty at the OCRB for approximately [REDACTED], beginning from the moment of his arrest [REDACTED] 2013,[4681] until he was brought before the court on or around [REDACTED] 2013.[4682] The Chamber notes that Mr Said resumed his role as the head of the OCRB by 27 June 2013 at the latest and assumed control over the detainees present

[4676] *See* above paras 618-619.
[4677] *See* above para. 933.
[4678] *See* above paras 933-935.
[4679] *See* above para. 935.
[4680] *See* above para. 935. The Chamber notes the Defence's arguments regarding this meeting between P-1289 and Nouradine Adam, but considers that they do not reflect the experience described by the witness and omit entirely or underplay crucial features of this exchange (such as Nouradine Adam's indication that [REDACTED]) as well as the broader context in which this exchange took place (his prior detention and mistreatment, as well as the Seleka's repeated warnings that he would be tortured or killed if he did not do as they said). *See* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 420.
[4681] *See* above para. 937.
[4682] *See* above para. 941.

at the OCRB on the date of his return.[4683] Mr Said is therefore responsible for P-0481's detention for [REDACTED], from [REDACTED] to [REDACTED] 2013.

1608. The Chamber now turns to the second element of the crime, namely that the gravity of the conduct was such that it was in violation of fundamental rules of international law. As indicated above, the Chamber takes into account relevant considerations regarding the full period of P-0481's detention at the OCRB prior to Mr Said's return in determining the reasons that he was targeted and detained and whether there was a lawful basis for his detention.[4684] The Chamber considers that there was no indication that the Seleka had obtained an arrest warrant for P-0481 or that he was caught in the act of committing a crime.[4685] The Chamber notes that P-0481 was denied the rights that generally accompany deprivation of liberty, such as the right to be informed of the legal basis for his arrest and detention and there is no indication that he was afforded the right to a lawyer and the right to an independent or impartial review of his detention.[4686]

c. Incident C

1609. With respect to the first element of the crime against humanity of imprisonment or other severe deprivation of physical liberty, the Chamber finds that members of the OCRB Seleka imprisoned or otherwise severely deprived P-2692 of his physical liberty at the OCRB for three hours on or about [REDACTED] June 2013 (the day after he was first detained by the Seleka on or about [REDACTED] June 2013), and then again on or around [REDACTED] June 2013 for approximately 20 days until he was released on [REDACTED] July 2013.[4687] The Chamber notes that Mr Said resumed his role as the head of the OCRB by 27 June 2013 and assumed control over the detainees present in the OCRB on the date of his return.[4688] Mr Said is therefore responsible for P-2692's detention at the OCRB for approximately [REDACTED] days from 27 June to on or about [REDACTED] July 2013.

1610. The Chamber now turns to the second element of the crime, namely that the gravity of the conduct was such that it was in violation of fundamental rules of international law.

[4683] *See* above paras 1591, 1595-1596.
[4684] *See* above para. 1596.
[4685] *See* above para. 937.
[4686] *See* above para. 941.
[4687] *See* above paras 943-945, 947.
[4688] *See* above paras 1591, 1595-1596.

As indicated above, the Chamber will take into account the full circumstances of P-2692's detention by and interaction with the Seleka relevant to both instances of detention in assessing the lawfulness of the period of his detention during which Mr Said was in charge of the OCRB.[4689] The Chamber considers that there was no indication that the Seleka had previously obtained an arrest warrant for P-2692 or that he was caught in the act of committing a crime on either occasion.[4690] In the first instance of his arrest on [REDACTED] June 2013, the Seleka did not inform P-2692 that they were bringing him to the OCRB, and his relative was only informed of his detention the next day when the OCRB Seleka demanded a ransom for P-2692's release.[4691] The Chamber also notes that, on this occasion, P-2692 was questioned by an 'OCRB Colonel' in a severely injured state.[4692] On the second instance of his arrest, on [REDACTED] June 2013, the 'OCRB Colonel' did inform P-2692 that he was being kept for 'security matters and for investigation', but P-2692 was not given any further reasons.[4693] The Chamber notes that he was denied the rights that generally accompany deprivation of liberty, such as the right to independent and impartial review of his detention, and that there is no indication that he was afforded the right to a lawyer throughout his detention until his release on [REDACTED] July 2013. Finally, the Chamber finds that the circumstances of P-2692's release by the 'OCRB Colonel' on both occasions, namely the ransom offered by P-2692's relative in exchange for his release, were inconsistent with lawful detention.[4694]

1611. The Chamber notes the Defence's arguments concerning the standard nature of his detention conditions on both occasions of his arrest, particularly, the length of his first detention, being allowed to go out regularly in the context of family visits during his second detention and being detained for security reasons.[4695] The Defence also argues that P-2692 was not a victim of violence during his transfer to the OCRB, he received treatment adapted to his injuries when he arrived at the OCRB, and did not allege any ill-treatment during his second detention.[4696] The Chamber considers that these arguments regarding the conditions of P-2692's detention do not impact its conclusion that P-2692 was unlawfully imprisoned or otherwise severely deprived of his physical

[4689] *See* above paras 1586-1590, 1596.
[4690] *See* above para. 944.
[4691] *See* above para. 944.
[4692] *See* above paras 943-944.
[4693] *See* above para. 946.
[4694] *See* above paras 944, 947.
[4695] Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 433.
[4696] Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 430.

liberty.

d. Incident G

1612. With respect to the first element of the crime against humanity of imprisonment or other severe deprivation of physical liberty, the Chamber finds that members of the OCRB Seleka imprisoned or otherwise severely deprived [REDACTED] of his physical liberty from the moment he was detained at [REDACTED] on [REDACTED] June 2013 and taken to the OCRB at least until he was removed from the OCRB later that day.[4697]

1613. Turning to the second element of the crime, that the gravity of the conduct was such that it was in violation of fundamental rules of international law, the Chamber considers that there was no indication that the Seleka had obtained an arrest warrant for [REDACTED] or that he was caught in the act of committing a crime.[4698] The Chamber notes that he went to the [REDACTED] to meet with some former FACA colleagues who had joined the Seleka, ostensibly so that they could sympathise with [REDACTED].[4699] Instead, an altercation broke out and the Seleka members violently detained [REDACTED] and transported him to the OCRB.[4700] [REDACTED] was subsequently killed.[4701]

e. Incident H

1614. With respect to the first element of the crime against humanity of imprisonment or other severe deprivation of physical liberty, the Chamber finds that the 16 persons (including P-1180, P-1743, P-2263 and P-2295) detained in relation to the flyers were imprisoned or otherwise severely deprived of their liberty at the OCRB from the moment of their transfer from Camp de Roux to the OCRB on or about 10 July 2013 to the moment of their transfer to Ngaragba prison approximately one week later, on or about 17 July 2013.[4702]

1615. The Chamber now turns to the second element of the crime, namely that the gravity of the conduct was such that it was in violation of fundamental rules of international law.

[4697] *See* above paras 952-953.
[4698] *See* above para. 952.
[4699] *See* above para. 952.
[4700] *See* above para. 952.
[4701] *See* above para. 953.
[4702] *See* above paras 965, 970.

As indicated above, the Chamber will take into account the full circumstances of the 16 persons' arrest by and interaction with the Seleka in assessing the lawfulness of the period of detention spent at the OCRB.[4703] Based on the circumstances in which the Seleka apprehended the 16 persons, the Chamber finds that there were no valid arrest warrants or judicial orders and that there was no objective and/or genuine justification for any arrest.[4704] In this regard, the Chamber recalls that the person who apprehended the detainees was a Seleka Colonel wearing plain clothes, who did not identify himself or explain the basis of his purported authority to detain them.[4705]

1616. The Chamber notes that the detainees were approached suddenly, without explanation and often apparently at random in the following circumstances: (i) P-1180 was apprehended after having been asked by a colleague to make copies of a piece of paper, having no knowledge of its contents, together with the Second Detainee, [REDACTED];[4706] (ii) the Third and Twelfth Detainees were stopped and put in the vehicle on the street, after the Colonel had asked them to pick up a paper from the ground;[4707] (iii) the Fourth, Fifth, Sixth, Seventh and Ninth Detainees, together with P-1743 (the Eighth Detainee), were detained at [REDACTED] because of their intervention during the arrest by Seleka members of one of the victims who was reading a document he had found on the ground;[4708] (iv) the Colonel apprehended the Tenth and Eleventh Detainees while they were resting [REDACTED];[4709] (v) the Thirteenth Detainee was arrested at a bus station after a boy handed him a paper mentioning the strike and a Seleka member began questioning him about it;[4710] (vi) the Fourteenth Detainee was the [REDACTED] area and was arrested by the Colonel, who claimed that he (the Fourteenth Detainee) had protest papers;[4711] (vii) the Fifteenth Detainee was arrested while visiting a friend because he was in the proximity of a print shop and there were papers on the ground;[4712] (viii) the Sixteenth Detainee was apprehended while [REDACTED] on the street.[4713] With the exception of P-1180 and the Second Detainee, the Chamber finds that

[4703] *See* above paras 1586-1590.
[4704] *See* above paras 956-963.
[4705] *See* above paras 956-963.
[4706] *See* above para. 956.
[4707] *See* above paras 958, 960.
[4708] *See* above para. 958.
[4709] *See* above para. 959.
[4710] *See* above para. 962.
[4711] *See* above para. 963.
[4712] *See* above para. 963.
[4713] *See* above para. 963.

there is no indication that any of these detainees were involved in the production or distribution of the flyers.

1617. The Chamber finds that the circumstances of the arrest of the detainees as outlined above show that there was no lawful basis to detain these individuals. The unlawfulness of the actions of the arresting Seleka members is also underscored by the manner in which they conducted the operation. In this regard, the Chamber notes that P-0358 was told by the Seleka member who drove him back to his place of work that his intervention, to warn the Seleka at Camp de Roux that [REDACTED] should not have any marks of torture on them when they left, had saved the lives of the two men.[4714] The Chamber further recalls that the Seleka Colonel who carried out the arrests stole various machines and killed two persons whom he had apprehended, which is inconsistent with a lawful arrest operation.[4715]

1618. The Chamber notes that the Prosecution argues that the charges against the detainees were manifestly ill-founded as they were charged in relation to conduct protected by international human rights, such as the right to freedom of expression.[4716] The Chamber notes that the exercise of the rights to freedom of expression and freedom of assembly may be subject to restrictions when necessary and in accordance with the law.[4717] The Chamber observes in this regard that protests regarded as peaceful may nevertheless be unlawful depending on the form that they take and the applicable legal framework. Regarding the flyer at issue in the present case, the Chamber recalls that there was no detailed and clear evidence as to the form of protest the flyer called for and the terms in which it outlined the grievances that provoked the planned action. In the absence of such evidence, the Chamber is unable to determine whether the flyers represented a protected exercise of the freedom of expression or freedom of assembly, such that it would have been unlawful *per se* to criminally prosecute persons suspected of producing or distributing the flyer.

[4714] *See* above para. 957.
[4715] *See* above paras 960-961.
[4716] Prosecution Closing Brief, ICC-01/14-01/21-1027-Red, para. 267.
[4717] International Covenant on Civil and Political Rights, articles 19, 21. *See also* articles 10-11 of the European Convention on Human Rights; article 9(2) of the African Charter on Human and Peoples' Rights, recognising the right to express and disseminate 'opinions within the law', article 10, recognising the right of every individual 'to free association provided that he abides by the law', and article 11, recognising the right of every individual 'to assemble freely with others'; articles 13, 15 of the American Convention on Human Rights.

1619. The Defence argues that the arrest and subsequent detention of the 16 persons detained in relation to the flyers was lawful and consistent with the provisions of Central African criminal law.[4718] The Chamber acknowledges that certain legal processes were ostensibly followed in relation to the detainees.[4719] In this regard, the Chamber recalls that a UNHCHR fact-finding mission visited the OCRB at some point prior to 11 July and commented on the detention of the 16 detainees who were there at the time.[4720] The findings of the report noted the failure of the penitentiary authorities and the Prosecutor of the Republic 'to invoke any legal basis justifying the deprivation of liberty' of the group of detainees.[4721]

1620. The Chamber recalls its findings that, in the proceedings against the detainees, *procès-verbaux* were recorded, and custody orders were issued on 11 July 2013, and the detainees were represented by lawyers and subsequently tried before the *Tribunal de Grande Instance*.[4722] However, the Chamber considers that the significance of these procedural steps has to be assessed in context and, in particular, in light of the difficulties Central African judicial institutions faced in functioning during the time when the Seleka were in *de facto* control of Bangui.[4723] In this regard, the Chamber notes that armed Seleka members were present in the courtroom during the hearings, threatening the detainees and displaying a lack of respect for the proceedings.[4724] Regarding the earlier procedural steps taken in relation to these detainees, the Chamber notes that, based on the provisions of the CAR Criminal Procedure Code, the detainees should have been released on 10 July 2013, prior to the issuance of the custody orders.[4725] It further recalls that the *procès-verbaux* did not necessarily reflect what the witnesses had said, and that, at least one detainee felt pressured to sign a statement that he indicated to have been incorrect.[4726] The Chamber also recalls that visits from the detainees' lawyers were restricted when they were detained in Ngaragba prison.[4727]

1621. The Defence argues that distinctions were made between the accused persons in the

[4718] Defence Closing Brief, ICC-01/14-01/21-1039-Red, paras 468-474.
[4719] *See* above paras 969, 971.
[4720] *See* above para. 967.
[4721] *See* above para. 967.
[4722] *See* above paras 969-971.
[4723] *See* above para. 647.
[4724] *See* above para. 971.
[4725] *See* above para. 969.
[4726] *See* above para. 969.
[4727] *See* above para. 970.

verdicts of their case.[4728] While the Chamber acknowledges that the detainees received different sentences, it notes that there is no explanation as to why the distinctions were made and that some of the persons who were arrested in the same or similar circumstances received different verdicts.[4729] For example, P-1180 (the First Detainee) was acquitted, while the Second Detainee was convicted and given a six-month suspended prison sentence in circumstances where the First Detainee presented a sheet of paper (allegedly the flyer) to be photocopied [REDACTED] the Second Detainee.[4730] Similarly, the Fifth Detainee was sentenced to a suspended term of six months of imprisonment, while P-1743 (the Eighth Detainee) was sentenced to a suspended term of 12 months, although they were arrested in similar circumstances at [REDACTED].[4731] Consequently, the Chamber cannot determine that the verdicts reached took into account the circumstances of each of the accused.

1622. Taking into account the circumstances in which the 16 persons were arrested, which show that there was no legitimate reason to detain them, and the defects in the subsequent steps taken to try to legitimise their detention, the Chamber is satisfied that the detention of the 16 persons at the OCRB was unlawful.

f. Incident I

1623. With respect to the first element of the crime against humanity of imprisonment or other severe deprivation of physical liberty, the Chamber finds that the OCRB Seleka imprisoned or otherwise severely deprived P-1429 and [REDACTED] of their liberty at the OCRB for approximately [REDACTED] days, and [REDACTED] for one week.[4732]

1624. The Chamber now turns to the second element of the crime, namely that the gravity of the conduct was such that it was in violation of fundamental rules of international law. As indicated above, the Chamber will take into account the full circumstances of the three persons' arrest by and interaction with the Seleka in assessing the lawfulness of the period of detention spent at the OCRB.[4733] Based on the circumstances in which the Seleka arrested the three persons, the Chamber considers that there was no indication that the

[4728] Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 473.
[4729] *See* above para. 971.
[4730] *See* above paras 956, 971.
[4731] *See* above paras 958, 971.
[4732] *See* above paras 973-974, 976.
[4733] *See* above paras 1586-1590.

Seleka members had obtained an arrest warrant for P-1429 and the two other men, or that they were caught in the act of committing a crime.[4734] The findings of the Chamber set out above show that, during the interrogation of the detainees at [REDACTED] without legal representation, [REDACTED] stated that [REDACTED].[4735] [REDACTED].[4736] [REDACTED].[4737] The ensuing proceedings were dismissed on the basis of a lack of evidence against them.[4738]

1625. In coming to this conclusion, the Chamber has considered the Defence's argument that P-1429 was arrested on legitimate suspicion of his role in [REDACTED], was interrogated by [REDACTED], detained under normal conditions at the OCRB where he received visits from his family and food twice a day, was not subjected to any ill-treatment and was released by the public prosecutor after normal judicial proceedings.[4739] In the view of the Chamber, the Defence's arguments disregard crucial features of the evidence, including the evidence of Jean-Claude Sophil regarding the lack of genuineness of the proceedings instituted, and fail to engage with the reality of the circumstances under which these persons were detained. The Chamber does not accept that procedural safeguards were respected during the detention of P-1429 and the two other men.

g. Incident J

1626. With respect to the first element of the crime against humanity of imprisonment or other severe deprivation of physical liberty, the Chamber finds that the OCRB Seleka violently arrested Oswald Sanze by shooting him and imprisoned or otherwise severely deprived him of his physical liberty in the back of a vehicle while he was still alive, until the point when he succumbed to his injuries and died.[4740] The Chamber notes that members of the OCRB Seleka detained P-2931 at the OCRB for six days, from on or around [REDACTED] July 2013 to [REDACTED] July 2013, and also detained another man for an unknown number of days.[4741]

1627. The Chamber now turns to the second element of the crime, namely that the gravity of

[4734] *See* above para. 973.
[4735] *See* above para. 974.
[4736] *See* above para. 974.
[4737] *See* above para. 976.
[4738] *See* above para. 976.
[4739] Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 478.
[4740] *See* above paras 979-982.
[4741] *See* above paras 979, 981, 986.

the conduct was such that it was in violation of fundamental rules of international law. The Chamber notes that the OCRB Seleka members who attempted to apprehend Oswald Sanze were informed that he was a FACA member suspected of being in the 'Anti-Balaka' and of recruiting others into the 'Anti-Balaka', distributing leaflets and carrying out armed robbery.[4742] Considered in the context of the wider evidence regarding the Seleka's targeting and mistreatment of members of the FACA and persons associated with François Bozizé,[4743] the Chamber finds that this perceived association was the reason for Oswald Sanze's attempted apprehension.

1628. There is no indication that the Seleka had obtained an arrest warrant for Oswald Sanze or that he was caught in the act of committing a crime.[4744] The Chamber also considered the manner in which the intervention was conducted, in particular, that: (i) Mr Said had ordered the OCRB Seleka to retrieve Oswald Sanze 'dead or alive';[4745] (ii) members of the OCRB Seleka knocked on, then broke down the door of Oswald Sanze's home in the middle of the night;[4746] (iii) there is no evidence that the Seleka attempted to inform the occupants of the house of the purpose of or the legal basis for their intrusion;[4747] and (iv) the Seleka shot Oswald Sanze as he attempted to flee and subsequently made no effort to save his life.[4748] The Chamber considers that these features of the operation support the conclusion that it was carried out in violation of fundamental rules of international law.

1629. The Defence argues that Oswald Sanze's attempted arrest was based on a legitimate suspicion that he had broken the law as he possessed a weapon and had committed armed robberies.[4749] However, the Chamber notes that this argument selectively quotes the evidence of [REDACTED] and fails to engage with the wider context of targeting of persons perceived to be associated with François Bozizé or the circumstances of Oswald Sanze's arrest.[4750]

1630. As regards P-2931 and another man, the Chamber notes that the members of the OCRB Seleka took them prisoner because they were present in Oswald Sanze's home at the time

[4742] *See* above para. 978.
[4743] *See* above paras 632-633.
[4744] *See* above paras 978-980.
[4745] *See* above para. 978.
[4746] *See* above paras 979-980.
[4747] *See* above para. 980.
[4748] *See* above paras 980-982.
[4749] Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 313.
[4750] *See* above paras 632, 979-980.

that the operation to apprehend him was conducted, although they were not the subjects of the operation and their identities were not known at the time.[4751] Accordingly, the Chamber finds that there was no legal basis to apprehend and detain P-2931 and another man. Although P-2931 was questioned by Tahir about [REDACTED] '[REDACTED] weapon' and the other man was also interrogated at the OCRB,[4752] there is no indication that they were involved in criminality or that proceedings were initiated against them.

1631. Additionally, as regards P-2931, the Chamber notes that his family was not informed of his detention and that he was denied the rights that generally accompany deprivation of liberty, such as the right to a lawyer.[4753] His family ultimately paid to secure his release,[4754] which the Chamber considers to be inconsistent with the existence of a legitimate investigation or lawful detention.

h. Incident L

1632. With respect to the first element of the crime against humanity of imprisonment or other severe deprivation of physical liberty, the Chamber finds that the OCRB Seleka imprisoned or otherwise seriously deprived P-2519 of his physical liberty at the OCRB for a period of two weeks, beginning from the moment P-2519 was brought to the OCRB by armed Seleka members until his transfer [REDACTED].[4755]

1633. The Chamber now turns to the second element of the crime, namely that the gravity of the conduct was such that it was in violation of fundamental rules of international law. As indicated above, the Chamber will take into account the full circumstances of P-2519's detention by the Seleka in assessing the lawfulness of the period of detention spent at the OCRB.[4756] The Chamber considers that there was no indication that the Seleka members had obtained an arrest warrant for P-2519 or that he was caught in the act of committing a crime.[4757] The Chamber recalls its finding that the OCRB Seleka members targeted P-2519 because they accused him of being a soldier and that armed Seleka members took him from a public location to the OCRB on the false pretext that

[4751] *See* above para. 981.
[4752] *See* above para. 983, 988.
[4753] *See* above para. 986.
[4754] *See* above para. 986.
[4755] *See* above paras 990, 994, 996.
[4756] *See* above paras 1586-1590.
[4757] *See* above para. 990.

they would bring him to his intended destination and without telling him that he was being detained.[4758]

1634. The Chamber notes the Prosecution's allegations that the court proceedings subsequently issued against P-2519 were 'manifestly ill-founded',[4759] as well as the Defence's arguments that there was a judicial proceeding, resulting in a formal conviction, and the Prosecution has no ground to challenge this state of affairs.[4760]

1635. The Chamber notes the circumstances in which P-2519 was taken to the OCRB under a false pretext, and notes that the record of arrest was created [REDACTED] days after his actual arrest.[4761] The Chamber recalls that P-2519 was not informed of the reasons for his arrest, not granted access to a lawyer during his detention at the OCRB, not promptly produced before an authority to review the lawfulness of his detention, and his family was not informed that he was being detained there.[4762] P-2519 was made to sign documents that were not read out to him at [REDACTED].[4763] P-2519 understood from subsequent questioning that he was accused of having joined the Seleka, which he denied, and that there was no complainant against him.[4764] Although he was charged with [REDACTED] and convicted of [REDACTED], he was never made aware of the charges against him.[4765] The Chamber also notes that P-2519 did not serve his sentence.[4766] The Chamber considers that all these circumstances were inconsistent with lawful detention. In any event, in the view of the Chamber, these subsequent proceedings could not have remedied the violation of his rights and the unlawfulness of his mistreatment that had already occurred at the OCRB.

i. Incident M

1636. With respect to the first element of the crime against humanity of imprisonment or other severe deprivation of physical liberty, the Chamber finds that the Seleka imprisoned or otherwise severely deprived the four men who were the subjects of Incident M of their

[4758] *See* above paras 990, 993.
[4759] Prosecution Closing Brief, ICC-01/14-01/21-1027-Red, paras 266-267.
[4760] Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 496.
[4761] *See* above paras 990, 995.
[4762] *See* above para. 995.
[4763] *See* above para. 996.
[4764] *See* above para. 996.
[4765] *See* above paras 995-996.
[4766] *See* above para. 996.

physical liberty at the OCRB on the morning of 19 August 2013.[4767] The Chamber recalls that the four men were put into the underground cell on the same day and that three of them were released on 22 August 2013.[4768] Accordingly, the Chamber finds that these three persons were detained for three days in the underground cell. The Chamber recalls that one of the detainees remained in the underground cell from 19 August 2013 to on or about 30 August 2013, on which day he was put in an above-ground cell in the OCRB courtyard.[4769] This detainee escaped the OCRB on 31 August 2013.[4770] Accordingly, the Chamber finds that this person was detained for approximately 12 days in total in the underground cell and one day in an above-ground cell in the OCRB courtyard.

1637. The Chamber now turns to the second element of the crime, namely that the gravity of the conduct was such that it was in violation of fundamental rules of international law. As indicated above, the Chamber will take into account the full circumstances of the four men's arrest by and interaction with the Seleka in assessing the lawfulness of the period of detention spent at the OCRB.[4771] Based on the circumstances in which the Seleka arrested the four men, the Chamber finds that there was no indication that the Seleka members had obtained an arrest warrant for these four men or that they were caught in the act of committing a crime.[4772] The Chamber notes that the four men were denied the rights that generally accompany deprivation of liberty, including the right to be informed of the reason for their arrest and of the charges against them and that there is no indication that they were afforded the right to a lawyer.[4773] The Chamber recalls that one of the detainees was slapped with a pistol when he asked about the reason for their arrest.[4774] After the four men were loaded into the vehicle and before arriving at the OCRB Ngouciment, one of the men asked again why they had been arrested, but received no answer.[4775] When the four men were brought to the *Tribunal de Grande Instance* in Bangui, they met Prosecutor Tolmo, who asked them whether they knew about the reason for their arrest and the charges against them.[4776] In response, one of the detainees said

[4767] *See* above para. 1001.
[4768] *See* above paras 1001, 1003, 1005.
[4769] *See* above paras 1001,1006.
[4770] *See* above para. 1006.
[4771] *See* above paras 1586-1590.
[4772] *See* above para. 998.
[4773] *See* above paras 999, 1004.
[4774] *See* above para. 999.
[4775] *See* above para. 999.
[4776] *See* above para. 1004.

that he was completely unaware of the reason for their arrest, recounting that they were at a funeral of a family member when they were arrested and that no one had lodged a complaint against them.[4777]

1638. The Chamber recalls that three detainees were released after the families of at least two of them contacted individuals of influence in the Seleka regime to secure their release.[4778] In respect of the detainee who continued to be detained until 31 August 2013, the Chamber has additionally considered that this detainee escaped the OCRB with the assistance of police officials,[4779] which indicates that the Seleka never formally released him.

j. Incident N

1639. With respect to the first element of the crime against humanity of imprisonment or other severe deprivation of physical liberty, the Chamber finds that the OCRB Seleka imprisoned or otherwise severely deprived the 'baker' of his physical liberty at the OCRB for at least one day sometime between 6 May and 10 June 2013.[4780]

1640. The Chamber now turns to the second element of the crime, namely that the gravity of the conduct was such that it was in violation of fundamental rules of international law. The Chamber considers that there was no indication that the Seleka members had obtained an arrest warrant for the 'baker' or that he was caught in the act of committing a crime.[4781] The Chamber recalls that, on arrival at the OCRB, the Seleka violently interrogated the 'baker' regarding the whereabouts of François Bozizé and his 'inner circle'.[4782] Given its findings that the OCRB Seleka did not generally comply with lawful procedures governing arrest and detention,[4783] and given the profile of this detainee and the manner in which the Seleka treated such individuals,[4784] the Chamber finds that the only reasonable inference is that the detention of the baker was not lawful.

[4777] *See* above para. 1004.
[4778] *See* above para. 1005.
[4779] *See* above para. 1006.
[4780] *See* above paras 1009, 1011.
[4781] *See* above para. 1009.
[4782] *See* above para. 1010.
[4783] *See* above para. 1601.
[4784] *See* above paras 1010-1011.

k. Incident O

1641. With respect to the first element of the crime against humanity of imprisonment or other severe deprivation of physical liberty, the Chamber finds that the OCRB Seleka imprisoned P-0547 or otherwise severely deprived him of his physical liberty at the OCRB from the moment they brought him to the OCRB on or about 21 August 2013 to his escape 10 days later on or about 31 August 2013.[4785] P-0547 was detained for approximately eight days in the underground cell and for approximately two days in an above ground cell in the OCRB courtyard.[4786] The Chamber also recalls its finding that at various times during P-0547's detention, a short boy from Burundi and at least one other detainee named [REDACTED] were detained in the underground cell with him and a Koranic school teacher named [REDACTED] slept in the room above the underground cell.[4787]

1642. The Chamber now turns to the second element of the crime, namely that the gravity of the conduct was such that it was in violation of fundamental rules of international law. The Chamber notes that there was no indication that the Seleka members had obtained an arrest warrant for P-0547, or that he was caught in the act of committing a crime.[4788] There is no indication that P-0547 was afforded the rights that generally accompany deprivation of liberty, such as the right to be informed of the legal basis for his arrest at the time of arrest and the charges against him, as well as the right to legal representation.[4789] In this regard, the Chamber notes that although P-0547 was accused of being a 'Bozizé's mercenar[y]', and that the OCRB Seleka questioned P-0547 without legal representation about his 'accomplices', his links to [REDACTED], and calls he made to *Radio France International*, there is no evidence that the Seleka formally informed him of the legal basis for his arrest or any charges against him.[4790]

1643. The Chamber further considers that P-0547 ultimately escaped from the OCRB, after the OCRB closing ceremony, following [REDACTED]'s intervention and with the assistance of police officials,[4791] which indicates that the OCRB Seleka never formally

[4785] *See* above paras 1012, 1031.
[4786] *See* above paras 1015, 1018-1019, 1030-1031.
[4787] *See* above para. 1019.
[4788] *See* above para. 1012.
[4789] *See* above paras 1013, 1032.
[4790] *See* above paras 1013-1014, 1025, 1032.
[4791] *See* above paras 1030-1031.

released him and that the police did not consider his detention to be lawful.

1644. Regarding the short boy from Burundi and the other detainee named [REDACTED], given its findings that the OCRB Seleka did not generally comply with lawful procedures governing arrest and detention,[4792] and the manner in which the Seleka generally treated individuals detained in the underground cell, the Chamber finds that the only reasonable inference is that their detention was not lawful. Therefore, the Chamber finds that the second element of the crime against humanity of imprisonment or other severe deprivation of physical liberty is fulfilled with respect to these individuals.

1645. Regarding the Koranic school teacher named [REDACTED] detained in the room above the underground cell, the Chamber did not receive enough evidence regarding the time he was detained or the circumstances of his detention to allow it to make an assessment of whether the gravity of the conduct was in violation of fundamental rules of international law.

l. Incident Q

1646. With respect to the first element of the crime against humanity of imprisonment or other severe deprivation of physical liberty, the Chamber finds that the Seleka arrested four persons (P-2241, P-2400, P-2239 and [REDACTED]) shortly after [REDACTED] August 2013, brought them to the OCRB on the same evening and detained them there until the end of August 2013.[4793] Accordingly, the four persons (P-2241, P-2400, P-2239 and [REDACTED]) were imprisoned at the OCRB for a period of approximately [REDACTED] days. The Chamber recalls that there was also an older man who was detained at the ORCB during this period.[4794]

1647. The Chamber now turns to the second element of the crime, namely that the gravity of the conduct was such that it was in violation of fundamental rules of international law. As indicated above, the Chamber will take into account the full circumstances of the four persons' arrest by and interaction with the Seleka in assessing the lawfulness of the period of detention spent at the OCRB.[4795] Based on the circumstances in which the Seleka

[4792] *See* above para. 1601.
[4793] *See* above paras 1035, 1041-1043, 1067.
[4794] *See* above para. 1068.
[4795] *See* above paras 1586-1590.

arrested the four persons, the Chamber finds that there was no indication that the Seleka members had obtained an arrest warrant for these four persons or that they were caught in the act of committing a crime.[4796] The Chamber recalls that armed Seleka members apprehended P-2400 and P-2241 in the evening from a public place in the 4th arrondissement and brought them to Camp de Roux, where, in the absence of legal representation, they were interrogated by armed Seleka commanders, surrounded by other Seleka members.[4797] P-2400 was violently interrogated about having a [REDACTED] family name, accused of being Bozizé's relative and an intelligence agent, and threatened with death.[4798] Seleka General [REDACTED] apprehended P-2239 around the same time at Camp de Roux on suspicion of making calls to Bozizé's men on the other side of the river.[4799] The Seleka apprehended P-2239's friend [REDACTED] and accused him of being a traitor.[4800]

1648. The Defence agues that [REDACTED] accompanied the four persons from Camp de Roux to the OCRB, which shows that their detention was overseen by the prosecutor.[4801] In this regard, the Chamber recalls its conclusions that [REDACTED] was acting on Michel Djotodia's instructions when the four persons were apprehended at Camp de Roux.[4802] P-2241's interview with Prosecutor [REDACTED] shows that the decision on her release was to be made by [REDACTED] and not any independent judicial authority.[4803] None of the other detainees were questioned by Prosecutor [REDACTED] or any other prosecutorial or State authority during the approximately 12 days they spent under the custody of the Seleka.[4804] In these circumstances, the Chamber rejects the Defence's arguments that the detention of the four persons was overseen by [REDACTED].

1649. The Chamber also considered the intervention of [REDACTED] at the time, to have P-2241 and P-2400 released.[4805] The Chamber found that [REDACTED] questioned P-2400 and P-2241, and P-2241 informed him that she did not know why they had been

[4796] *See* above paras 1035-1036, 1041-1042.
[4797] *See* above paras 1035-1039.
[4798] *See* above paras 1038, 1040.
[4799] *See* above para. 1041.
[4800] *See* above para. 1042.
[4801] Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 543.
[4802] *See* above para. 1043.
[4803] *See* above para. 1064.
[4804] *See* above para. 1052.
[4805] *See* above para. 1039.

arrested, following which [REDACTED] asked the Seleka commanders to free them, but they denied his request.[4806]

1650. The Defence also argues that the details of the four persons were recorded and noted in a register upon their arrival at the OCRB, which proves compliance with the ordinary legal procedural framework for detention.[4807] The Chamber notes its findings that these records were Seleka records and were typically not shared with the police who were present at the OCRB, who generally did not know who the Seleka had detained.[4808] Accordingly, the Chamber finds that registration of these detainees by the OCRB Seleka was not an indication of the lawfulness of the process.

1651. The Defence points to the detention conditions of each of the four persons to argue that they had access to the necessary amenities at the OCRB and that this, *inter alia*, demonstrated that their arrest and detention were in accordance with an ordinary legal procedure.[4809] The Chamber did not consider the limited access the detainees had to necessary amenities as a factor in establishing that their detention was lawful.

1652. The Chamber further recalls that neither P-2400 nor P-2241 were informed of the reasons for their arrest.[4810] In respect of P-2241, the Chamber found that Mr Said questioned her a week after she had been detained at the OCRB,[4811] and that he accompanied her to be interviewed at the prosecutor's office after she had been detained for approximately one week and two days.[4812] Yet, the prosecutor did not inform her of the reasons for her detention, despite her asking, and did not release her following this interview.[4813] There is no indication that P-2239 and the other detainee ([REDACTED]) were informed of the reason for their arrest and any charges against them. There is also no indication that any of the four persons were afforded the right to a lawyer.

1653. The Chamber also considers that the circumstances of the witnesses' release from the OCRB, namely the ransom paid by their families in exchange for their release,[4814] were

[4806] *See* above para. 1039.
[4807] Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 545.
[4808] *See* above para. 907.
[4809] Defence Closing Brief, ICC-01/14-01/21-1039-Red, paras 546-549.
[4810] *See* above para. 1036.
[4811] *See* above para. 1063.
[4812] *See* above para. 1064.
[4813] *See* above para. 1064.
[4814] *See* above paras 1053, 1058, 1065.

inconsistent with lawful detention.

1654. Regarding the older man who was detained at the OCRB and had been tied using the *arbatachar* method, the Chamber did not receive enough evidence regarding the time he spent at the OCRB or the circumstances of his detention to make an assessment of whether the gravity of the conduct was in violation of fundamental rules of international law.[4815] Therefore, the Chamber finds that the second element of the crime against humanity of imprisonment or other severe deprivation of physical liberty is not fulfilled with respect to this individual.

m. Incident R

1655. With respect to the first element of the crime against humanity of imprisonment or other severe deprivation of physical liberty, the Chamber finds that the OCRB Seleka imprisoned or otherwise severely deprived various other men of their physical liberty in the underground cell at the OCRB during the period relevant to the charged crimes.[4816] In this regard, the Chamber recalls that [REDACTED] and [REDACTED] were detained for an unknown duration of time in the underground cell.[4817]

1656. The Chamber now turns to the second element of the crime, namely that the gravity of the conduct was such that it was in violation of fundamental rules of international law. The Chamber recalls that the Seleka arrested [REDACTED] and [REDACTED] based on allegations that they were involved with the 'Anti-Balaka' and violently interrogated them in an effort to extract information.[4818] Given its findings that the OCRB Seleka did not generally comply with lawful procedures governing arrest and detention, [4819] and given the profile of these detainees and the manner in which the Seleka treated such individuals, the Chamber finds that the only reasonable inference is that their detention was not lawful.

ii. Conclusion

1657. On the basis of the foregoing, the Chamber finds that the objective elements of

[4815] *See* above para. 1068.
[4816] *See* above para. 1070.
[4817] *See* above paras 1071-1072.
[4818] *See* above paras 1071-1072.
[4819] *See* above para. 1601.

imprisonment or other severe deprivation of liberty as a crime against humanity, pursuant to article 7(1)(e) of the Statute (Count 1), are fulfilled in relation to the following victims: P-1289 (Incident A); P-0481, limited to the period from [REDACTED] to [REDACTED] 2013 (Incident B); P-2692, limited to the period from 27 June to [REDACTED] July 2013 (Incident C); [REDACTED] (Incident G); 16 persons, including P-1180, P-1743, P-2263 and P-2295 (Incident H); P-1429 and two other men (Incident I); Oswald Sanze, P-2931 and another man ([REDACTED]) (Incident J); P-2519 (Incident L); four men (P-3064, P-3056, P-3053 and another man ([REDACTED])) (Incident M); the 'baker' (Incident N); P-0547, the short boy from Burundi and the other detainee named [REDACTED] (Incident O); four persons (P-2241, P-2400, P-2239 and another man ([REDACTED])) (Incident Q); and two men ([REDACTED] and [REDACTED]) (Incident R).

c) Count 2 – torture

1658. Under Count 2, Mr Said is charged with torture as a crime against humanity, pursuant to article 7(1)(f) of the Statute in respect of a number of incidents.[4820] For the reasons set out above,[4821] the Chamber will address the charge of torture in respect of Incidents H, L, N, O, Q[4822] and R.

i. First element: severity of pain and suffering

1659. The Chamber turns to the first element of torture as a crime against humanity, that the perpetrator inflicted severe physical or mental pain or suffering upon one or more

[4820] *See* above paras 11-12 (in which the Chamber indicated that it will consider the charge of torture only in respect of Incidents B, E, H, M, and Q and the following incidents in which victims were allegedly tied using the *arbatachar* method at the OCRB: F, L, N, O, P, Q (in relation to the unidentified 'older man') and R.

[4821] As noted above, in respect of Incident B the Chamber was unable to determine whether Mr Said was in charge of the OCRB during the period in which the conduct charged as torture took place (*see* above para. 1592). Similarly, in respect of Incidents E, F and P, the Chamber did not enter factual findings (*see* above paras 120-125, 950 (Incident E), 951, 1245-1246 (Incident F), 285-297, 1034 (Incident P)). In respect of Incident M, the Chamber recalls that the factual allegation forming the basis of the confirmation of charges of torture for this incident is that 'P-3053 and the others were beaten badly by Seleka elements' on the same day that the four men were put in the underground cell: Confirmation of Charges Decision, ICC-01/14-01/21-218-Red, p. 56). The Chamber could not establish beyond reasonable doubt that P-3053 was taken out and beaten during his detention in the underground cell: *see* above para. 1412. The Chamber did not receive any evidence to the effect that the 'others were beaten badly by Seleka elements' on this day. Accordingly, the Chamber does not consider these incidents further for the purpose of its legal findings on torture.

[4822] In respect of Incident Q, the Chamber recalls that it could not determine whether the mistreatment of the older man who was tied in the '*arbatacha*' manner and beaten with a wooden bat took place at the OCRB or at the hands of the OCRB Seleka: *see* above para. 1558. Accordingly, the Chamber does not consider this further for the purpose of its legal findings on torture.

persons.

a. Incident H

1660. The Chamber recalls that when the 16 persons who were detained in relation to the flyers arrived at the OCRB, the OCRB Seleka members involved ordered the detainees to remove their clothes and lie face-down, poured a mixture of water and sand, soil or clay on their backs and whipped them multiple times to the point that two detainees soiled themselves.[4823] The Chamber further recalls that this took place in the presence of one of the detainees' families and he felt that he lost their respect as a result.[4824] In addition, the Chamber recalls that the Seleka members subsequently forced the detainees to run into a cell as they kicked them with their boots and beat them with batons.[4825] The Chamber finds that these acts reach the requisite threshold for torture.

b. Incident L

1661. The Chamber recalls that, following his arrival at the OCRB, P-2519 was mistreated, including: (i) being whipped and tied up using the *arbatachar* method;[4826] (ii) having water poured on him multiple times and;[4827] (iii) being beaten, which rendered him unconscious and upon regaining consciousness, he was unable to walk and had to crawl slowly into his cell.[4828] The Chamber finds that the level of physical and mental suffering endured by P-2519 at the OCRB was sufficient to meet the threshold required for torture.

c. Incident N

1662. The Chamber recalls the manner in which the OCRB Seleka mistreated the 'baker' at the OCRB. Specifically, the Chamber recalls that the OCRB Seleka beat the 'baker' with ropes, whips, and military belts all over his body and tied him up using the *arbatachar* method.[4829] The Chamber finds that the level of physical and mental suffering endured by the 'baker' at the OCRB was sufficient to meet the threshold required for torture.

[4823] *See* above para. 965.
[4824] *See* above para. 965.
[4825] *See* above para. 965.
[4826] *See* above para. 992.
[4827] *See* above para. 992.
[4828] *See* above para. 992.
[4829] *See* above para. 1010.

d. Incident O

1663. The Chamber recalls the mistreatment of P-0547 at the OCRB.[4830] Specifically, the Chamber recalls that the members of the OCRB Seleka: (i) tied P-0547 up using the *arbatachar* method, drawing his elbows in and pulling his right leg behind him until it touched his elbow;[4831] (ii) hung P-0547 close to the barbed wire on the wall separating the OCRB from the MOOV premises and encircled him, hitting him with rifle butts and pushing him against the wall;[4832] (iii) threatened him by cocking a Kalashnikov and pointing it at his head while P-0547 begged for his life to be spared;[4833] (iv) took out a knife to slit P-0547's throat, while another OCRB Seleka member said he would kill P-0547 slowly.[4834] The Chamber finds that this treatment caused P-0547 severe physical and mental pain and suffering, including the paralysis of his hands for approximately nine months thereafter, as well as wounds, which became infected and scarred.[4835] The Chamber finds that the level of physical and mental suffering endured by P-0547 at the OCRB was sufficient to meet the threshold required for torture.

e. Incident Q

1664. In line with its approach to mistreatment by Seleka members at other bases before arriving at the OCRB,[4836] which continued at the OCRB, the Chamber recalls the mistreatment of P-2400 by the Seleka at Camp de Roux. Specifically, the Chamber recalls that, at Camp de Roux, Seleka members tied P-2400 using the *arbatachar* method and severely mistreated him.[4837] The Chamber further recalls that as a result of his mistreatment P-2400 started bleeding heavily and his clothes were covered in blood.[4838] In this condition, he was transferred to the OCRB, along with P-2241, P-2239 and another man ([REDACTED]).[4839] The Chamber takes this into account only for the purposes of assessing the condition in which he arrived at the OCRB.

[4830] *See* above paras 1020-1022.
[4831] *See* above para. 1020.
[4832] *See* above para. 1020.
[4833] *See* above para. 1020.
[4834] *See* above para. 1020.
[4835] *See* above paras 1022, 1033.
[4836] *See* above para. 1590.
[4837] *See* above para. 1040.
[4838] *See* above para. 1040. *See also* para. 1049.
[4839] *See* above para. 1043.

1665. The Chamber recalls that P-2400 arrived at the OCRB in a visibly injured state and bleeding from his head, which he said made him feel chilly when he was put in the underground cell.[4840] P-2400 did not receive treatment for his injuries from any Seleka member at the OCRB, despite the fact that he was still bleeding when he arrived there, and he had to wrap his shirt around the wound on his head.[4841]

1666. The Chamber notes that, during his registration at the OCRB, when P-2400 gave information concerning his identity, an OCRB Seleka member hit P-2400 hard and he fell on the ground, after which a different OCRB Seleka member hit him in his neck and threatened to kill him with a knife.[4842]

1667. Having regard to the aforementioned conduct, the Chamber concludes that the level of physical and mental suffering endured by P-2400 at the OCRB was sufficient to meet the threshold required for torture. In this regard, the Chamber is satisfied that the physical state in which P-2400 arrived at the OCRB, together with the physical assault and the threats to be killed with a knife, inflicted severe physical and mental pain or suffering on P-2400.

1668. In respect of the other three persons (P-2241, P-2239 and [REDACTED]), although the Chamber considers that they suffered harm as a result of their detention at the OCRB,[4843] the Chamber does not consider their treatment at the OCRB to reach the threshold required for torture.

f. Incident R

1669. The Chamber recalls the mistreatment of [REDACTED] and [REDACTED] in that they were whipped and tied up using the *arbatachar* method at the OCRB.[4844] The Chamber considers that the level of physical and mental suffering endured by [REDACTED] and [REDACTED] was sufficient to meet the threshold required for torture.

ii. Second element: custody or control of the perpetrator

1670. Turning to the second element of torture as a crime against humanity, the Chamber is

[4840] *See* above paras 1048-1049.
[4841] *See* above para. 1052.
[4842] *See* above para. 1045.
[4843] *See* above paras 1055-1056, 1060-1061.
[4844] *See* above paras 1071-1072.

satisfied that all victims mentioned above in respect of Incidents H, L, N, O, Q, and R were in the custody or under the control of the OCRB Seleka, given that the torture described above was carried out by OCRB Seleka members in the enclosed compound of the OCRB.

iii. Third element: lawful sanctions

1671. Turning to the third element of torture as a crime against humanity, the Chamber is satisfied that the pain or suffering described above did not arise from, and was not inherent in or incidental to, lawful sanctions. In this regard, the Chamber considers that the type of mistreatment meted out to the aforementioned victims at the OCRB in respect of Incidents H, L, N, O, Q, and R could not have been related to lawful sanctions.

iv. Conclusion

1672. The Chamber accordingly finds the elements of torture as a crime against humanity, pursuant to article 7(1)(f) of the Statute (Count 2) fulfilled in relation to the following victims: 16 persons, including P-1180, P-1743, P-2263 and P-2295, detained in relation to the flyers (Incident H); P-2519 (Incident L); the 'baker' (Incident N); P-0547 (Incident O); P-2400 (Incident Q); and two men ([REDACTED] and [REDACTED]) (Incident R).

d) Count 5 – other inhumane acts

1673. Under Count 5, Mr Said is charged with other inhumane acts as a crime against humanity of people perceived to be Bozizé supporters, who were detained in deplorable conditions at the OCRB, and who were verbally and physically abused, including during interrogations, between 12 April 2013 and 30 August 2013, pursuant to article 7(1)(k) of the Statute, in relation to all incidents.[4845]

i. First element: great suffering or serious injury by means of an inhumane act

1674. The Chamber turns to the first element of other inhumane acts as a crime against humanity, namely, that the perpetrator inflicted great suffering, or serious injury to body or to mental or physical health, by means of an inhumane act.

[4845] Confirmation of Charges Decision, ICC-01/14-01/21-218-Red, p. 60.

a. Incident A

1675. The Chamber recalls that while transporting P-1289 to the OCRB, OCRB Seleka threatened, slapped and punched P-1289 in the head.[4846] Upon arrival at the OCRB, Sallet slapped and spat on P-1289, another Seleka member slapped him, 'boxed' him and threatened to kill him.[4847] The OCRB Seleka kept P-1289 in his underwear until Mahamat Sallet returned P-1289's clothes to him in the night when he (P-1289) complained that he could not sleep wearing only his underwear.[4848] P-1289 was unable to sleep all night due to the stress caused by his situation.[4849] P-1289 was aware that other detainees were mistreated or killed, and was repeatedly warned that he would be tortured or killed if he did not do as the Seleka commanded.[4850] The Chamber finds that the first legal element for other inhumane acts is fulfilled in respect of P-1289.

b. Incident B

1676. The Chamber recalls its conclusions that P-0481 was put in a cell lacking basic amenities, was not provided with food during his detention and was dependent on his cellmate's family to provide food for him.[4851] The Chamber also takes into account that P-0481 was not provided medical assistance during his detention, despite the fact that he had been beaten and burned by members of the OCRB Seleka.[4852] P-0481 saw and heard other detainees being mistreated, tortured and killed during the time when he was detained at the OCRB.[4853] Although P-0481 was detained for approximately [REDACTED], for the reasons set out above, the Chamber only takes into account [REDACTED] his detention as relevant to establishing Mr Said's criminal responsibility.[4854] The Chamber finds that the first legal element for other inhumane acts is fulfilled in respect of P-0481.

c. Incident C

1677. The Chamber recalls that the OCRB Seleka put P-2692 in a cell that was so cramped that

[4846] *See* above para. 934.
[4847] *See* above para. 934.
[4848] *See* above para. 934.
[4849] *See* above para. 934.
[4850] *See* above para. 934.
[4851] *See* above para. 939.
[4852] *See* above para. 939-940.
[4853] *See* above para. 939.
[4854] *See* above paras 1591-1592.

the cellmates had to lie on their sides 'head to toe' and alternate with others who were sitting on a ledge to sleep.[4855] The OCRB Seleka detained P-2692 purportedly 'for security matters and for investigation', interrogated P-2692 about his relationship with a public personality from Boy Rabe linked to François Bozizé, and threatened him almost daily, despite P-2692's denial of such link.[4856] On one occasion, the OCRB Seleka brought P-2692 to [REDACTED], telling him that [REDACTED] if he did not tell the truth about his relationship with this personality.[4857] P-2692 witnessed the beating, whipping, and mistreatment of fellow detainees at the OCRB.[4858] The OCRB Seleka allowed P-2692 out of his cell at least during visiting hours.[4859] Although P-2692 was detained at the OCRB for approximately 20 days, for the reasons set out above, the Chamber only takes into account the circumstances of his detention during the last [REDACTED] days as relevant to establishing Mr Said's criminal responsibility.[4860] The Chamber finds that the first legal element for other inhumane acts is fulfilled in respect of P-2692.

d. Incident G

1678. The Chamber did not have sufficient information regarding the beating and detention of [REDACTED] to allow it to establish that the threshold of great physical and mental suffering required for other inhumane acts was met in relation to his treatment at the OCRB or at the hands of the OCRB Seleka when he was apprehended at [REDACTED].[4861] The Chamber did not receive information regarding the conditions in which he was detained or the treatment that he was subjected to after his arrest. The Chamber could not determine that [REDACTED] was killed at the hands of the OCRB Seleka,[4862] and therefore it has not taken this into account for the purposes of its assessment.

1679. The Chamber finds that the first legal element for other inhumane acts is not fulfilled in respect of [REDACTED] and it has not addressed the remaining elements for this

[4855] *See* above para. 946.
[4856] *See* above para. 946.
[4857] *See* above para. 946.
[4858] *See* above para. 947.
[4859] *See* above para. 947.
[4860] *See* above paras 1591-1593.
[4861] *See* above para. 952.
[4862] *See* above para. 953.

incident.

e. Incident H

1680. Having regard to its findings on torture with respect to the 16 persons detained in relation to the flyers[4863] and noting the residual nature of article 7(1)(k) of the Statute, the Chamber has addressed the requirements of other inhumane acts only in respect of the circumstances of their detention following their torture at the OCRB. The Chamber recalls that the OCRB Seleka put the detainees in a crowded cell lacking basic amenities, where they were required to take turns in order to sit down or sleep and provided them with no medical treatment in the aftermath of their physical mistreatment.[4864] The Chamber also considers that the fact that the detainees were able to hear the mistreatment of others and see their injuries contributed to their mental suffering by inducing a state of fear and distress.[4865] The Chamber finds that the first legal element for other inhumane acts is fulfilled in respect of all 16 detainees.

f. Incident I

1681. The Chamber considers that it cannot find beyond reasonable doubt that the involved members of the OCRB Seleka inflicted great suffering on three persons (P-1429 and two other men) by means of an inhumane act sufficient to qualify as a crime against humanity of other inhumane acts.

1682. In particular, the Chamber recalls the duration of the detention of the three persons (P-1429 and two other men) respectively.[4866] It recalls that P-1429 initially felt like he was treated properly during his detention, and that the two other men told him that they had not 'been tortured during their detention at the OCRB.'[4867] The Chamber could not fully ascertain the entirety of the conditions in which the two other men were detained and, from the limited information available to the Chamber, it appears that their treatment was not worse than that meted out to P-1429. As regards P-1429's own detention, the Chamber recalls that P-1429 was detained in an unlocked cell with [REDACTED] other

[4863] *See* above paras 1661, 1673.
[4864] *See* above para. 966.
[4865] *See* above para. 968.
[4866] *See* above para. 1624.
[4867] *See* above paras 975, 1326.

prisoners, was allowed out of the cell during the day and received family visits and food from his [REDACTED].[4868] The Chamber recalls that P-1429 witnessed other detainees being mistreated and taken away.[4869] Given the statement by the P-1429 that they were not mistreated, the Chamber cannot enter a finding beyond reasonable doubt that the first legal element for other inhumane acts is fulfilled in respect of these individuals, even if the witness stated that he had medical issues as a result of the experience at the OCRB.[4870]

g. Incident J

1683. The Chamber recalls that members of the OCRB Seleka threw P-2931's [REDACTED] (Oswald Sanze), who was still alive and breathing with difficulty, on top of P-2931, as he was lying down in the back of a pick up truck, being transported to the OCRB.[4871] P-2931 could smell Oswald Sanze's blood, which was dripping onto his clothing through the canvas sheet and could hear Oswald Sanze's agony.[4872] At the OCRB, the OCRB Seleka tied P-2931 up, slapped him and, dragged him across the ground.[4873] The OCRB Seleka detained him in a cell that was so crowded that there was no space to lie down and the detainees would urinate and defecate in a container.[4874] The OCRB Seleka threatened the detainees, including P-2931, when they prayed.[4875] Members of the OCRB Seleka told P-2931's fellow detainees to 'strike' him.[4876] P-2931 was detained with a FACA member whose hands were paralysed and scarred because he had been tied up by the Seleka, as well as with other detainees who had wounds due to the fact that they had been tied up.[4877] The Chamber finds that the first legal element for other inhumane acts is fulfilled in respect of P-2931.

1684. Regarding the other man ([REDACTED]), the Chamber recalls that members of the OCRB Seleka also apprehended this man ([REDACTED]) during the intervention at Oswald Sanze's house, and brought him to the OCRB, where he was interrogated on

[4868] *See* above paras 974-975.
[4869] *See* above para. 975.
[4870] *See* above para. 977.
[4871] *See* above para. 981.
[4872] *See* above para. 981.
[4873] *See* above para. 983.
[4874] *See* above para. 984.
[4875] *See* above para. 984.
[4876] *See* above para. 984.
[4877] *See* above para. 984.

arrival and subsequently detained.[4878] The Chamber considers that the details relating to this man ([REDACTED])'s detention and treatment are insufficient to establish that the first legal element of other inhumane acts was fulfilled in respect of him. The Chamber has therefore not addressed the remaining elements in respect of him.

1685. Regarding Oswald Sanze, the Prosecution has not clarified how his treatment should be legally characterised. The factual allegations confirmed by the Pre-Trial Chamber are that 'Mr SAID sent OCRB-Seleka to arrest and detain Oswald SANZE, a FACA member, as he was suspected of being a BOZIZE supporter. The OCRB-Seleka shot and killed SANZE'.[4879] In its Pre-Confirmation Brief, the Prosecution indicated that 'Said is not charged with the murder of Oswald Sanze […] as there is insufficient evidence regarding his intent and knowledge that Sanze was to be killed or would have been killed in the ordinary course of events.'[4880] As Mr Said is not alleged to be responsible for the killing of Oswald Sanze, the Chamber does not take into account the act of shooting him in the head, which resulted in his death, for the purposes of its consideration of other inhumane acts. However, in relation to Oswald Sanze's subsequent treatment, the Chamber notes that the Prosecution alleges that the Seleka threw him into the back of a truck, where he was bleeding and expressing agonizing pain, before they drove to the morgue of the hospital, where they left him.[4881] The Chamber takes these subsequent actions into account for the purposes of assessing whether other inhumane acts have been established in relation to Oswald Sanze.

1686. The Chamber notes that, after shooting Oswald Sanze, the OCRB Seleka made no effort to seek immediate medical attention for him.[4882] About 10 minutes after they arrested P-2931, members of the OCRB Seleka threw Oswald Sanze, who was still alive and breathing with difficulty, on top of P-2931 in the back of a truck.[4883] Oswald Sanze was bleeding heavily and was in agony.[4884] The OCRB Seleka then left Oswald Sanze's body on the ground outside the hospital.[4885] Given that the Seleka had taken Oswald Sanze into

[4878] *See* above paras 981-982, 988.
[4879] Confirmation of Charges Decision, ICC-01/14-01/21-218-Red, p. 56, para. 29(j).
[4880] Prosecution Pre-Confirmation Brief, ICC-01/14-01/21-155-Red3, n. 378.
[4881] Prosecution Trial Brief, ICC-01/14-01/21-359-Red, para. 189; *see also* Prosecution Closing Brief, ICC-01/14-01/21-1027-Red, para. 181.
[4882] *See* above paras 981-982.
[4883] *See* above para. 981.
[4884] *See* above para. 981.
[4885] *See* above para. 982.

their custody, the Chamber finds that they were responsible for the inhumane manner in which he was treated after he was shot. The Chamber finds that the first legal element for other inhumane acts is fulfilled in respect of the Seleka's treatment of Oswald Sanze after he was shot.

h. Incident L

1687. Having regard to its findings on torture with respect to P-2519 and noting the residual nature of article 7(1)(k) of the Statute, the Chamber has addressed the requirements of other inhumane acts only in respect of the circumstances of his detention following his torture at the OCRB.

1688. The Chamber recalls that after P-2519's torture at the OCRB, the OCRB Seleka detained him for a period of two weeks in two different cells.[4886] One cell had no windows and was small and overcrowded to such an extent that P-2519 and the 17 other detainees had to sit with open legs to fit between each other's legs.[4887] A Seleka colonel beat P-2519 and his fellow detainees almost every night that he (P-2519) was detained at the OCRB.[4888] There were two instances in the first few days of his detention when he observed that prisoners were removed from the cell and never returned.[4889] The Chamber finds that the first legal element for other inhumane acts is fulfilled in respect of P-2519.

i. Incident M

1689. The Chamber recalls the duration of the respective periods of detention of each of the four men in the underground cell and the deprivation of food and water on the first day.[4890] The Chamber recalls the conditions in the underground cell,[4891] and the detainees' experience when put there, including being confined to a cell containing human faeces and insects and lacking light and facilities to relieve themselves.[4892] The four men could not see what was going on outside but could hear voices, including those

[4886] *See* above para. 994.
[4887] *See* above para. 994.
[4888] *See* above para. 994.
[4889] *See* above para. 994.
[4890] *See* above paras 1001, 1003, 1005-1006, 1637.
[4891] *See* above paras 910, 1002-1003.
[4892] *See* above para. 1002.

of other detainees at the OCRB crying and wailing.[4893]

1690. Regarding one of the four men (P-3056), the Chamber recalls that a Seleka member took him out of the underground cell, drove him in a vehicle out of the OCRB, questioned him about Ngaïkosset and Bozizé, threatened to kill him with a gun, and put him back into the underground cell with the remaining detainees.[4894] The detainee (P-3056), in fear of his life, [REDACTED] was trembling when he was returned to the underground cell.[4895]

1691. The Chamber finds that the first legal element for other inhumane acts is fulfilled in respect of all four men (P-3064, P-3056, P-3053 and another man ([REDACTED])).

j. Incident N

1692. Having regard to its findings on torture with respect to the 'baker' and noting the residual nature of article 7(1)(k) of the Statute, the Chamber has addressed the requirements of other inhumane acts only in relation to the circumstances of his detention in the underground cell following his torture.

1693. The Chamber recalls that after members of the OCRB Seleka tortured and interrogated the 'baker', they locked him in the underground cell for at least one day.[4896] The Chamber recalls its findings regarding the conditions of the underground cell, and notes that, in and of itself it presented unsanitary conditions and was a place designed to inflict despair and fear.[4897] The Chamber finds that the first legal element for other inhumane acts is fulfilled in respect of the 'baker'.

k. Incident O

1694. Having regard to its findings on torture with respect to P-0547 and noting the residual nature of article 7(1)(k) of the Statute, the Chamber has addressed the requirements of other inhumane acts only in respect of the circumstances of his detention before and after his torture at the OCRB.

1695. The Chamber recalls that, before P-0547 was subjected to torture, Bachar slapped P-0547

[4893] *See* above para. 1002.
[4894] *See* above para. 1003.
[4895] *See* above para. 1003.
[4896] *See* above paras 1010-1011.
[4897] *See* above para. 910.

across the face violently upon his arrival at the OCRB and threatened to kill him.[4898] Multiple OCRB Seleka members beat P-0547 all over his body with rifle butts.[4899] Thereafter, the OCRB Seleka put P-0547 in cell 'G3', which contained many detainees.[4900] All the detainees inside the cell were on the ground, including wounded people who were lying down and could barely move.[4901] P-0547 and his co-detainees defecated in a bucket and urinated in plastic bottles kept in their cell.[4902] Amongst the detainees was a young soldier and a man whose entire body was covered in blood.[4903] While detained in cell 'G3', P-0547 heard women screaming and being beaten.[4904]

1696. The OCRB Seleka then detained P-0547 in the underground cell.[4905] The Chamber recalls the conditions in the underground cell.[4906] The Chamber further recalls that after subjecting P-0547 to torture, including by tying him using the *arbatachar* method, the OCRB Seleka kicked him back into the underground cell.[4907] P-0547 had severe injuries while being detained in the underground cell, including wounds which became infected and his hands were paralysed.[4908] Another detainee helped P-0547 when he needed to drink water and remove his trousers and undergarments every time he needed to urinate.[4909] The Chamber also considers the fact that P-0547 was able to hear the mistreatment of others and see their injuries contributed to his mental suffering by inducing a state of fear and distress.[4910] The Chamber finds that the threshold of great physical and mental suffering required under the first legal element for other inhumane acts is fulfilled in respect of P-0547.

1697. Regarding the short boy from Burundi and the other detainee named [REDACTED],[4911] the Chamber was satisfied based on the conditions in the underground cell,[4912] which in and of itself presented unsanitary conditions and was a place designed to inflict despair

[4898] *See* above para. 1013.
[4899] *See* above para. 1013.
[4900] *See* above para. 1015.
[4901] *See* above para. 1015.
[4902] *See* above para. 1015.
[4903] *See* above para. 1015.
[4904] *See* above para. 1016.
[4905] *See* above para. 1019.
[4906] *See* above paras 910, 1019.
[4907] *See* above paras 1020-1021.
[4908] *See* above para. 1022.
[4909] *See* above para. 1022.
[4910] *See* above paras 1015-1016, 1026, 1028.
[4911] *See* above para. 1019.
[4912] *See* above paras 910, 1019.

and fear, that the threshold of great physical and mental suffering required under the first legal element for other inhumane acts is fulfilled in respect of these individuals.

1698. Regarding the Koranic school teacher named [REDACTED] detained in the room above the underground cell,[4913] the Chamber did not receive enough evidence regarding the time he was detained or the circumstances of his detention to allow it to make an assessment of whether the threshold of great physical and mental suffering required under the first legal element for other inhumane acts is fulfilled in relation to this individual.

l. Incident Q

1699. Having regard to its findings on torture with respect to the four persons (P-2241, P-2400, P-2239 and another man ([REDACTED])) and noting the residual nature of article 7(1)(k) of the Statute,[4914] the Chamber has addressed the requirements of other inhumane acts in respect of one person (P-2400) insofar as it relates to his detention in the underground cell, and, in respect of the three persons (P-2241, P-2239 and another man ([REDACTED])), in respect of the circumstances of their detention at the OCRB.

1700. In respect of P-2400, the Chamber recalls that Mr Said ordered Seleka members to put P-2400 in the underground cell and they forced him to get in, threatening to kill him if he refused.[4915] The Chamber recalls its findings regarding the conditions of the underground cell, and notes that, in and of itself it presented unsanitary conditions and was a place designed to inflict despair and fear.[4916] After P-2337 [REDACTED], P-2400 was allowed to shower and was subsequently detained in a cell in the OCRB courtyard, as the Seleka continued to investigate whether he was in the military.[4917] The cell in the courtyard where P-2400 was detained was overcrowded to such an extent that the detainees could not sleep on the floor and had to sit against the wall while sleeping.[4918] P-2400 spent one week in the courtyard cell.[4919] P-2400 saw other detainees being beaten, tied up, and have water poured on them.[4920] He stated that sometimes, from inside his

[4913] *See* above para. 1019.
[4914] *See* above paras 1668-1669, 1673.
[4915] *See* above paras 1045, 1048.
[4916] *See* above paras 910, 1049.
[4917] *See* above paras 1050-1051.
[4918] *See* above para. 1051.
[4919] *See* above para. 1051.
[4920] *See* above para. 1051.

cell, he would hear the screams of detainees being beaten outside.[4921]

1701. In respect of P-2241, the Chamber recalls that on the first night of her detention at the OCRB, an OCRB Seleka member [REDACTED] and shortly thereafter, grabbed and tried to drag her out of the room she was being placed in with other female detainees.[4922] The OCRB Seleka member, who had [REDACTED], later also followed her [REDACTED] to get access to her, but P-2241 managed to escape him.[4923] After this incident, P-2241 showered together with the other female detainees to avoid the OCRB Seleka member [REDACTED] from harassing her.[4924] P-2241 slept on the floor of a [REDACTED] for the remainder of her detention, [REDACTED] remaining there alone for four nights.[4925] P-2241 witnessed Seleka members at the OCRB bringing detainees in and out of the cells, beating them and tying them up.[4926] The Chamber has also considered that the OCRB Seleka placed P-2241 in a particularly vulnerable position by detaining her in an environment predominantly occupied by armed male OCRB Seleka members, who worked and lived at the OCRB, including the one [REDACTED] and subsequently harassed her.[4927]

1702. In respect of P-2239 and [REDACTED], the Chamber recalls P-2239's questioning by General [REDACTED] and the circumstances of P-2239 and [REDACTED]'s detention half-naked in an overcrowded cell in the OCRB courtyard, where they had to relieve themselves in a plastic bucket shared between the detainees.[4928]

1703. The Chamber finds that the first legal element of other inhumane acts is fulfilled in respect of all four persons (P-2241, P-2400, P-2239 and another man ([REDACTED])).

1704. In respect of the unidentified man, who, upon arrival at the OCRB, was tied up and beaten with sticks for 15 to 20 minutes on Mr Said's orders while he begged for mercy, the Chamber finds that the first legal element for other inhumane acts is fulfilled.[4929]

[4921] *See* above para. 1051.
[4922] *See* above para. 1060.
[4923] *See* above para. 1060.
[4924] *See* above para. 1060.
[4925] *See* above para. 1061.
[4926] *See* above paras 1061-1062.
[4927] *See* above paras 1060-1061.
[4928] *See* above paras 1055-1057.
[4929] *See* above para. 1069.

m. Incident R

1705. Having regard to its findings on torture with respect to [REDACTED] and [REDACTED] and noting the residual nature of article 7(1)(k) of the Statute, the Chamber has addressed the requirements of other inhumane acts only in relation to the circumstances of their detention in the underground cell.

1706. The Chamber recalls that the OCRB Seleka detained two persons ([REDACTED] and [REDACTED]) in the underground cell for an unknown period of time before they were tortured.[4930] The Chamber recalls its findings regarding the conditions of the underground cell, and notes that, in and of itself it presented unsanitary conditions and was a place designed to inflict despair and fear.[4931] The Chamber finds that the first legal element for other inhumane acts is fulfilled in respect of two persons ([REDACTED] and [REDACTED]).

ii. Second element: character of the act

1707. The Chamber turns to the second element of other inhumane acts as a crime against humanity, namely, that such act was of a character similar to any other act referred to in article 7(1) of the Statute. The Chamber recalls that this element may be satisfied where the relevant course of conduct is, in its entirety, not identical but is nonetheless 'similar' in character in terms of its nature and gravity, to the crimes enumerated in article 7(1) of the Statute.[4932]

1708. The Chamber finds that the nature and gravity of the mistreatment and deplorable conditions of detention to which the following individuals were subjected made the acts of creating and perpetuating these detention conditions similar but not identical to other acts under article 7(1) of the Statute: P-1289 (Incident A), P-0481 (Incident B), P-2692 (Incident C), P-2931 (Incident J), P-2519 (Incident L), P-0547 (Incident O), P-2241 (Incident Q).

1709. The Chamber finds that the nature and gravity of the deplorable conditions to which the OCRB Seleka subjected the following individuals made the acts of creating and perpetuating these detention conditions similar but not identical to other acts under

[4930] *See* above paras 1070-1072.
[4931] *See* above para. 910.
[4932] *See* above para. 884.

article 7(1) of the Statute: the 16 persons detained in relation to the flyers (Incident H), P-3064, P-3056, P-3053 and another man ([REDACTED]) (Incident M), the 'baker' (Incident N), the short boy from Burundi and the other detainee named Said (Incident O), P-2400, P-2239 and [REDACTED] (Incident Q) and [REDACTED] and [REDACTED] (Incident R).

1710. The Chamber finds that the nature and gravity of the beating to which the unidentified man (Incident Q) was subjected made it similar but not identical to other acts under article 7(1) of the Statute. The Chamber finds that the nature and gravity of the Seleka's treatment of Oswald Sanze after they shot him and took him into custody made it similar but not identical to other acts under article 7(1) of the Statute.

iii. Conclusion

1711. The Chamber accordingly finds the objective elements of other inhumane acts as a crime against humanity, pursuant to article 7(1)(k) of the Statute (Count 5), fulfilled in relation to the following incidents: P-1289 (Incident A); P-0481, limited to the period from [REDACTED] to [REDACTED] 2013 (Incident B); P-2692, limited to the period from 27 June to [REDACTED] July 2013 (Incident C); 16 persons including P-1180, P-1743, P-2263 and P-2295 (Incident H); Oswald Sanze and P-2931 (Incident J); P-2519 (Incident L); four men (P-3064, P-3056, P-3053 and another man ([REDACTED])) (Incident M); the 'baker' (Incident N); P-0547, the short boy from Burundi and the other detainee named Said (Incident O); four persons (P-2241, P-2400, P-2239, another man ([REDACTED])) and an unidentified man who was beaten (Incident Q); and [REDACTED] and [REDACTED] (Incident R).

e) Count 7 – persecution

1712. Under Count 7, Mr Said is charged with persecution on political, ethnic, religious and/or gender grounds as a crime against humanity concerning the people detained at the OCRB, pursuant to article 7(1)(h) of the Statute, in relation to all incidents.[4933]

1713. The Chamber recalls that pursuant to articles 7(1)(h) and 7(2)(g) of the Statute,

[4933] Confirmation of Charges Decision, ICC-01/14-01/21-218-Red, pp. 60-61. The Chamber notes that there are no allegations to the effect that the unidentified man who was beaten at the OCRB (Incident Q), the short boy from Burundi, the other detainee named [REDACTED] and the Koranic school teacher named [REDACTED] (Incident O) were detained or mistreated on persecutory grounds. Accordingly, they are not considered under this count.

persecution as a crime against humanity requires that: (i) the perpetrator severely deprived, contrary to international law, one or more persons of fundamental rights; (ii) the perpetrator targeted such person or persons by reason of the identity of a group or collectivity or targeted the group or collectivity as such; (iii) such targeting was based on political, racial, national, ethnic, cultural, religious, gender as defined in article 7(3) of the Statute, or other grounds that are universally recognised as impermissible under international law; and (iv) the conduct was committed in connection with any act referred to in article 7(1) of the Statute or any crime within the jurisdiction of the Court.

i. First element: severe deprivation of fundamental rights contrary to international law

1714. In respect of the first element of persecution as a crime against humanity, namely that the perpetrator severely deprived, contrary to international law, one or more persons of fundamental rights, the Chamber finds, as described in its discussion of Count 1 above, that by imprisoning or severely depriving the following individuals of their physical liberty: P-1289 (Incident A); P-0481, limited to the period from [REDACTED] to [REDACTED] 2013, (Incident B); P-2692, limited to the period from 27 June to [REDACTED] July 2013, (Incident C); [REDACTED] (Incident G); 16 persons, including P-1180, P-1743, P-2263 and P-2295 (Incident H); P-1429 and two other men (Incident I); Oswald Sanze, P-2931 and another man (Incident J); P-2519 (Incident L); four men (P-3064, P-3056, P-3053 and another man ([REDACTED])) (Incident M); the 'baker' (Incident N); P-0547 (Incident O); four persons (P-2241, P-2400, P-2239 and [REDACTED]) (Incident Q); and two men ([REDACTED] and [REDACTED]) (Incident R), the OCRB Seleka deprived them of their right not to be subjected to arbitrary arrest or detention, contrary to international law.[4934]

1715. In addition, as described in its discussion of Count 2 above, by torturing 16 persons, including P-1180, P-1743, P-2263 and P-2295, detained in relation to the flyers (Incident H); P-2519 (Incident L); the 'baker' (Incident N); P-0547 (Incident O); P-2400 (Incident Q); and two men ([REDACTED] and [REDACTED]) (Incident R), the OCRB Seleka also severely deprived them of their fundamental right not to be subjected to torture, contrary to international law.[4935]

[4934] *See* above paras 889, 1658.
[4935] *See* above paras 889, 1673.

1716. Finally, as described in its discussion of Count 5 above, by inflicting great suffering, or serious injury to body or to mental or physical health, by means of an inhumane act, on: P-1289 (Incident A); P-0481, limited to the period from [REDACTED] to [REDACTED] 2013 (Incident B); P-2692, limited to the period from 27 June to [REDACTED] July 2013 (Incident C); 16 persons, including P-1180, P-1743, P-2263 and P-2295 (Incident H); Oswald Sanze and P-2931 (Incident J); P-2519 (Incident L); four men (P-3064, P-3056, P-3053 and another man ([REDACTED])) (Incident M); the 'baker' (Incident N); P-0547 (Incident O); P-2241, P-2400, P-2239 and another man ([REDACTED]) (Incident Q); and two men ([REDACTED] and [REDACTED]) (Incident R), the OCRB Seleka also severely deprived them of their fundamental right not to be subjected to inhuman and or degrading treatment or punishment, and the right of all persons deprived of their liberty to be treated with humanity and with respect for their inherent dignity, contrary to international law.[4936]

ii. Second and third elements: targeting by reason of identity of a group or collectivity, or targeting of the group or collectivity as such based on impermissible grounds

1717. In respect of the second element of persecution as a crime against humanity, the perpetrator must have targeted such person or persons by reason of the identity of a group or collectivity or targeted the group or collectivity as such. As to the third element of persecution as a crime against humanity, such targeting must be based on political, racial, national, ethnic, cultural, religious, gender as defined in article 7(3) of the Statute, or other grounds that are universally recognised as impermissible under international law.

1718. The Chamber notes that the persecution alleged in this case is the targeting of individuals 'on intersecting discriminatory political, ethnic, religious, and/or gender grounds, since they were perceived as affiliated to former CAR President Bozizé, were of Gbaya ethnicity or other ethnic groups perceived to support Bozizé, were of the Christian faith, and were predominantly male.'[4937]

1719. The Chamber notes that, in determining whether an individual may support François Bozizé, the Seleka had regard to a number of indicators, namely an individual's religion,

[4936] *See* above paras 889, 1712.
[4937] Prosecution Closing Brief, ICC-01/14-01/21-1027-Red, para. 292; Prosecution Trial Brief, ICC-01/14-01/21-359-Red, para. 311.

ethnicity, gender, political background, profession and/or domicile.[4938] Specifically, the Seleka members, including the OCRB Seleka, targeted Christians and people belonging to the Gbaya, Mandja and Banda ethnic groups.[4939] The Chamber recalls that the Seleka also targeted, men and boys, including (former) members of the FACA and Presidential Guard, and other persons perceived to be associated with François Bozizé or his regime.[4940] Women who were perceived to be associated with men in the FACA were similarly targeted and mistreated.[4941] The Seleka focused their operations on areas which were perceived to be strongholds for Bozizé supporters, including the 4th arrondissement, particularly the neighbourhood of Boy Rabe.[4942]

1720. Accordingly, the Chamber considers that the politically motivated targeting in this case had an intersectional element. It has therefore taken into consideration the religion, ethnicity, gender, political affiliation, profession and/or domicile of the person(s) in assessing the ground(s) on which the Seleka targeted them on a case-by-case basis.

a. Incident A

1721. The Chamber recalls that P-1289 is a Christian man of [REDACTED] ethnicity and a [REDACTED].[4943] The Chamber further recalls that while being transported to the OCRB, Colonel Mahamat Sallet also told him that he would be interrogated about his work [REDACTED] and he was subsequently interrogated about his work [REDACTED].[4944] Accordingly, the Chamber finds that Mr Said, Mahamat Sallet, Nouradine Adam and the OCRB Seleka members targeted P-1289 by reason of a perceived association with François Bozizé.

b. Incident B

1722. The Chamber recalls that P-0481 is a Christian man of [REDACTED] ethnicity, who was [REDACTED] affiliated with François Bozizé [REDACTED].[4945] The Chamber notes that members of the OCRB Seleka told P-0481 that he had a great deal of information

[4938] *See* above paras 632-633.
[4939] *See* above para. 632.
[4940] *See* above para. 632.
[4941] *See* above para. 632.
[4942] *See* above para. 633.
[4943] *See* above para. 933.
[4944] *See* above paras 934-935.
[4945] *See* above para. 937.

about the Bozizé regime, and that during the questioning of P-0481 at the OCRB, Nouradine Adam asked him for information about François Bozizé.[4946] Additionally, the OCRB Seleka referred to P-0481 as a supporter of Bozizé while they subjected him to mistreatment.[4947] Accordingly, the Chamber finds that the OCRB Seleka members targeted P-0481 by reason of a perceived association with François Bozizé.

c. Incident C

1723. The Chamber recalls that P-2692 is a Christian man of Gbaya ethnicity and was a [REDACTED] living in the 7th arrondissement near [REDACTED] at the relevant time.[4948] The Chamber notes that P-2692 [REDACTED] linked to François Bozizé at the time,[4949] and that the OCRB Seleka questioned P-2692 almost daily about his relationship with this person.[4950] Accordingly, the Chamber finds that the OCRB Seleka members targeted P-2692 by reason of a perceived association with François Bozizé.

d. Incident G

1724. The Chamber recalls that [REDACTED] was male and a former FACA who had not resumed work following the Seleka coup d'état.[4951] The Chamber finds that Seleka members beat [REDACTED] and he said to them that he was working for the country and not for the Seleka.[4952] Based on these findings and considering the Chamber's findings regarding the Seleka's pattern of targeting former FACA members following the *coup d'état*, the Chamber is satisfied that the OCRB Seleka members targeted [REDACTED] because he was a FACA member who did not return to work for the Seleka.[4953] Accordingly, the Chamber finds that the OCRB Seleka targeted [REDACTED] by reason of a perceived association with François Bozizé.

[4946] *See* above para. 940.
[4947] *See* above para. 940.
[4948] *See* above para. 943.
[4949] *See* above para. 946.
[4950] *See* above para. 946.
[4951] *See* above para. 952.
[4952] *See* above para. 952.
[4953] *See* above para. 632.

e. Incident H

1725. The Chamber recalls that the Seleka[4954] targeted 16 persons, including P-1180 (a Christian of [REDACTED] ethnicity), P-1743 (a Christian), P-2263 (a Christian) and P-2295 (a Christian of [REDACTED] ethnicity), because of their alleged involvement in the distribution of flyers in Bangui calling for a protest and because they perceived them to be against the Seleka.[4955] The Chamber further recalls that: (i) a Seleka General accused P-1180 and the Second Detainee of being 'Bozizé's men, trying to topple the government';[4956] (ii) the same Seleka General claimed that Bozizé had sent P-1180, [REDACTED] and P-0358 and accused them of using the paper to incite people and of trying to overthrow the government;[4957] (iii) Seleka members at Camp de Roux threatened and cursed the detainees as they thought they were 'Bozizé's men';[4958] and (iv) that OCRB Seleka pointed at the detainees and accused them of being pro-Bozizé and against the Seleka regime.[4959] Accordingly, the Chamber finds that OCRB Seleka targeted the 16 persons, including P-1180, P-1743, P-2263 and P-2295 by reason of a perceived association with François Bozizé.

f. Incident I

1726. The Chamber recalls that P-1429 is a Christian man of [REDACTED] ethnicity, who worked as a [REDACTED].[4960] The Chamber further recalls that the Seleka[4961] arrested P-1429 and two other men ([REDACTED]) because they were allegedly involved in [REDACTED] a former FACA [REDACTED] in the Bozizé regime.[4962] Accordingly, the Chamber finds that the OCRB Seleka members targeted P-1429 and the two other men by reason of a perceived association with François Bozizé.

g. Incident J

1727. The Chamber recalls that Oswald Sanze was a member of the FACA.[4963] Members of the

[4954] *See* above paras 1587-1590.
[4955] *See* above paras 956-963, 969.
[4956] *See* above para. 959.
[4957] *See* above para. 959.
[4958] *See* above para. 961.
[4959] *See* above para. 957, 968.
[4960] *See* above para. 973.
[4961] *See* above paras 1587-1590.
[4962] *See* above para. 973. *See also* above para. 1626.
[4963] *See* above para. 978, 981.

OCRB Seleka targeted Oswald Sanze because he was a FACA member and was suspected of being in the 'Anti-Balaka' and of recruiting others into the 'Anti-Balaka', distributing leaflets and carrying out armed robbery.[4964] The Chamber recalls its findings regarding the activities of a number of individuals alleged to have links to François Bozizé in the organisation of the Anti-Balaka.[4965] Accordingly, the Chamber finds that Mr Said and the OCRB Seleka targeted Oswald Sanze because he was perceived to be associated with François Bozizé.

1728. The Chamber recalls that P-2931, a Christian man and [REDACTED], lived with Oswald Sanze, [REDACTED].[4966] Another man [REDACTED].[4967] Members of the OCRB Seleka took P-2931 and another man prisoner because they were present in Oswald Sanze's home at the time that the operation to apprehend him was conducted and by virtue of their association with him.[4968] Given that the Seleka arrested the three men together and that the Seleka suspected Oswald Sanze to be in the 'Anti-Balaka', the only reasonable conclusion is that the Seleka apprehended P-2931 and another man on suspicion of being linked to the 'Anti-Balaka'. Accordingly, the Chamber finds that the OCRB Seleka members targeted P-2931 and another man because they were perceived to be associated with François Bozizé.

1729. The Chamber has considered the Defence's suggestion that P-2931's apprehension and questioning were carried out in connection with a 'search for weapons and banditry.'[4969] The Chamber notes that, although P-2931 was questioned about [REDACTED] '[REDACTED] weapon,[4970] there is no indication that he was suspected of being involved in banditry and there is no explanation for his subsequent detention.

h. Incident L

1730. The Chamber recalls that P-2519 is a Christian man of [REDACTED] ethnicity and was [REDACTED] from [REDACTED].[4971] The Seleka member who arrested P-2519 knew

[4964] *See* above para. 978, 981.
[4965] *See* above para. 378.
[4966] *See* above para. 979.
[4967] *See* above para. 979.
[4968] *See* above para. 981.
[4969] Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 491, Defence Closing Brief, ICC-01/14-01/21-1039-Conf, para. 491.
[4970] *See* above para. 983.
[4971] *See* above para. 990.

P-2519 and his family [REDACTED] and was aware that he [REDACTED].[4972] In addition, the Chamber recalls its conclusion that the OCRB Seleka members detained and mistreated P-2519 because they accused him of being a soldier, given that they used the term '*askar*' to refer to him as they beat him and the Seleka Captain said '[t]hen, you are the type of people that we are looking for' when he established that he was [REDACTED].[4973] Accordingly, the Chamber finds that the OCRB Seleka members targeted P-2519 by reason of a perceived association with François Bozizé.

i. Incident M

1731. With respect to the arrest and detention of four men (P-3053, P-3056, P-3064 and another man ([REDACTED])), the Chamber recalls that P-3053 was a Christian man of [REDACTED] ethnicity, P-3056 is a Christian man of [REDACTED] ethnicity and P-3064 is [REDACTED] ethnicity.[4974] The Chamber notes that, following their arrest, a Seleka member[4975] asked which one of them was P-3053, and that prior to their transfer to the OCRB, while at the OCRB Ngouciment, a Seleka member in a leadership role told them that they were suspected of having links to François Bozizé.[4976] Notwithstanding that [REDACTED], the Chamber considers that he was targeted by virtue of his association with P-3053.

1732. The Chamber further recalls that P-3056 was questioned on the first night of their detention at the OCRB about his knowledge of Ngaïkosset and François Bozizé and that P-3053 (who in addition to being Christian, was also of the [REDACTED] ethnicity), was detained in the underground cell for an additional nine days after the other three men (P-3064, P-3056 and another man ([REDACTED])) were released.[4977] Accordingly, the Chamber finds that the OCRB Seleka members targeted all four detainees (P-3053, P-3056, P-3064 and another man ([REDACTED])) by reason of a perceived association with François Bozizé.

[4972] *See* above para. 990.
[4973] *See* above para. 992-995.
[4974] *See* above para. 998.
[4975] *See* above paras 1587-1590.
[4976] *See* above paras 999-1000.
[4977] *See* above paras 1003, 1005-1006.

j. Incident N

1733. The Chamber recalls that following the arrest of the 'baker' by Mr Said and members of the OCRB Seleka, the OCRB Seleka members severely beat the 'baker' at the OCRB.[4978] During the beating, members of the OCRB Seleka mentioned President Bozizé's name and asked the 'baker' where they could find Bozizé's inner circle.[4979] Accordingly, the Chamber finds that the OCRB Seleka members targeted the 'baker' by reason of a perceived association with François Bozizé.

k. Incident O

1734. The Chamber recalls that when the Seleka arrested P-0547, a man of [REDACTED] ethnicity, in Boy Rabe, they questioned him about whether he was a soldier or part of the 'military [REDACTED]', and referred to him as one of 'Bozizé's mercenaries'.[4980] The Chamber further recalls that the OCRB Seleka interrogated P-0547 about his affiliation with 'political individuals' linked to François Bozizé.[4981] Accordingly, the Chamber finds that the OCRB Seleka members targeted P-0547 by reason of his perceived association with François Bozizé.

l. Incident Q

1735. The Chamber recalls that the Seleka[4982] apprehended P-2400, a Christian man of [REDACTED] ethnicity and P-2241, a Christian woman of [REDACTED] ethnicity [REDACTED], from a public place in the 4th arrondissement and took them to Camp de Roux.[4983] The Chamber further recalls that the Seleka members suspected P-2400 of being in the military, which he denied, and accused P-2241 of being P-2400's wife and accomplice, demanding that she confirm that P-2400 was a FACA member.[4984] P-2241 did not reply to their accusations.[4985] The Chamber notes that at Camp de Roux, Seleka commanders questioned P-2400 about being in the military and, upon noting P-2400's [REDACTED] family name, accused him of 'being a relative and an intelligence agent

[4978] *See* above para. 1010-1011.
[4979] *See* above para. 1010.
[4980] *See* above paras 1012-1013.
[4981] *See* above paras 1020, 1025.
[4982] *See* above paras 1587-1590.
[4983] *See* above para. 1035 1038-1039.
[4984] *See* above para. 1036.
[4985] *See* above para. 1036.

of Bozize'.[4986] In addition, during P-2400's physical mistreatment at Camp de Roux, Seleka members asked P-2400 multiple times to admit that he was in the military while threatening to kill him.[4987]

1736. As regards P-2239, who is a Christian man of [REDACTED] ethnicity and was [REDACTED] at the time of the events, the Chamber recalls its conclusions that he was arrested at Camp de Roux soon after P-2241 and P-2400 were brought there.[4988] General [REDACTED] questioned P-2239 about who he was [REDACTED], and a Seleka member carrying P-2239's confiscated phone saw [REDACTED].[4989] The Seleka members accused P-2239 of making calls to 'Bozizé's men' who were on the other side of the river Oubangui in the Democratic Republic of Congo, an allegation that P-2239 denied, and General [REDACTED] demanded to know 'about Bozizé's people across the river and their activities'.[4990] The Seleka members also brought P-2239's friend [REDACTED] to join P-2239, P-2400 and P-2241 and accused [REDACTED] of being a traitor.[4991]

1737. Accordingly, the Chamber finds that the OCRB Seleka members targeted four persons (P-2241, P-2400, P-2239 and [REDACTED]) by reason of a perceived association with François Bozizé.

m. Incident R

1738. The Chamber recalls that the Seleka arrested and detained [REDACTED], who is a Christian man, in the underground cell at the OCRB for his alleged support of the 'Anti-Balaka', tied him using the *arbatachar* method and beat him to obtain information on the 'Anti-Balaka'.[4992] The Chamber further recalls that the OCRB Seleka detained [REDACTED] at the OCRB, bound his feet together and beat him to obtain a confession on the movements and organisation of the 'Anti-Balaka'.[4993] The Chamber recalls its findings regarding the activities of a number of individuals alleged to have links to

[4986] *See* above para. 1038.
[4987] *See* above para. 1040.
[4988] *See* above para. 1041.
[4989] *See* above para. 1041.
[4990] *See* above para. 1041.
[4991] *See* above para. 1042.
[4992] *See* above para. 1071.
[4993] *See* above para. 1072.

François Bozizé in the organisation of the Anti-Balaka.[4994] Accordingly, the Chamber finds that the OCRB Seleka members targeted [REDACTED] and [REDACTED] by reason of a perceived association with François Bozizé.

n. Conclusion on the second and third elements

1739. The Chamber notes that for all of the aforementioned incidents it has determined that the victims were targeted by reason of a perceived association with François Bozizé, based on intersecting discriminatory political, ethnic, religious, and/or gender grounds. Accordingly, the Chamber finds that the second and third elements of the crime against humanity of persecution are fulfilled.

iii. Fourth element: connection with any act referred to in article 7(1) of the Statute or any crime within the jurisdiction of the Court

1740. In respect of the fourth element of persecution as a crime against humanity, pursuant to article 7(1)(h) of the Statute, namely that the conduct was committed in connection with any act referred to in article 7, paragraph 1, of the Statute or any crime within the jurisdiction of the Court, the Chamber recalls that the conduct underlying the alleged persecution was constituted by acts which themselves were characterised by the Chamber as article 7(1) crimes. As described above, these were namely the crimes against humanity of:

> Imprisonment or other severe deprivation of physical liberty under article 7(1)(e) in respect of: P-1289 (Incident A); P-0481, limited to the period from [REDACTED] to [REDACTED] 2013 (Incident B); P-2692, limited to the period from 27 June to [REDACTED] July 2013 (Incident C); [REDACTED] (Incident G); 16 persons, including P-1180, P-1743, P-2263 and P-2295 (Incident H); P-1429 and two other men (Incident I); Oswald Sanze, P-2931 and another man ([REDACTED]) (Incident J); P-2519 (Incident L); four men (P-3064, P-3056, P-3053 and another man ([REDACTED])) (Incident M); the 'baker' (Incident N); P-0547 (Incident O); four persons (P-2241, P-2400, P-2239 and another man ([REDACTED])) (Incident Q); and two men ([REDACTED] and [REDACTED]) (Incident R) of the Statute;
>
> Torture under article 7(1)(f) in respect of: 16 persons, including P-1180, P-1743, P-2263 and P-2295 (Incident H); P-2519 (Incident L); the 'baker' (Incident N); P-0547 (Incident O); P-2400 (Incident Q); and two men ([REDACTED] and [REDACTED]) (Incident R); and
>
> Other inhumane acts under article 7(1)(k) of the Statute in respect of: P-1289 (Incident A); P-0481, limited to the period from [REDACTED] to [REDACTED] 2013

[4994] *See* above para. 378.

(Incident B); P-2692, limited to the period from 27 June to [REDACTED] July 2013 (Incident C); 16 persons (Incident H); Oswald Sanze and P-2931 (Incident J); P-2519 (Incident L); four men (P-3064, P-3056, P-3053 and another man ([REDACTED])) (Incident M); the 'baker' (Incident N); P-0547 (Incident O); four persons (P-2241, P-2400, P-2239 and another man ([REDACTED])) (Incident Q); and two men ([REDACTED] and [REDACTED]) (Incident R).

1741. Accordingly, the Chamber finds that the fourth element of the crime against humanity of persecution is fulfilled.

iv. Conclusion

1742. In light of the foregoing, the Chamber finds that the elements of persecution as a crime against humanity, pursuant to article 7(1)(h) of the Statute (Count 7), are fulfilled in relation to the following individuals and incidents: P-1289 (Incident A); P-0481, limited to the period from [REDACTED] to [REDACTED] 2013 (Incident B); P-2692, limited to the period from 27 June to [REDACTED] July 2013, (Incident C); [REDACTED] (Incident G); 16 persons, including P-1180, P-1743, P-2263 and P-2295 (Incident H); P-1429 and two other men (Incident I); P-2931, Oswald Sanze and another man ([REDACTED]) (Incident J); P-2519 (Incident L); four men (P-3064, P-3056, P-3053 and another man ([REDACTED])) (Incident M); the 'baker' (Incident N); P-0547 (Incident O); four persons (P-2241, P-2400, P-2239 and [REDACTED]) (Incident Q); and two men ([REDACTED] and [REDACTED]) (Incident R).

f) Nexus between incidents established and attack against civilian population

1743. In order to establish that the crimes committed at the OCRB constitute crimes against humanity, the Chamber must establish that they were committed as part of the widespread and systematic attack carried out by the Seleka against the civilian population of Bangui perceived to support François Bozizé from at least April 2013 until at least November 2013.

1744. The Chamber recalls its factual conclusions on the pattern of crimes generally committed by the Seleka following the takeover of Bangui and in particular its finding that they apprehended and then detained, mistreated and killed multiple residents of Bangui in various locations.[4995] The Chamber recalls its factual conclusions that the Seleka

[4995] *See* above paras 613-631.

particularly targeted persons with real or perceived links to François Bozizé.[4996]

1745. The Chamber considers that this pattern of crimes is replicated across the incidents established above at the OCRB between April and August 2013. Subject to the exceptions set out below, the Chamber finds that the co-perpetrators, including the OCRB Seleka members, targeted the victims of the incidents established above because they were perceived to be associated with François Bozizé, as discussed in detail in the Chamber's findings on persecution above.[4997]

1746. Regarding the unidentified man who was beaten at the OCRB (Incident Q), the short boy from Burundi and the other detainee named Said (Incident O) the Chamber did not receive sufficient information to establish why these individuals were targeted and whether they were civilians or members of the Seleka.[4998] Accordingly, the Chamber cannot establish that the beating of the unidentified man mentioned in Incident Q, or the detention of the short boy from Burundi and the other detainee named Said in Incident O were part of the attack against the civilian population.

1747. Having regard to the foregoing, the Chamber finds, in respect of the incidents established above (with the exception of the unidentified man who was beaten at the OCRB (Incident Q), the short boy from Burundi and the other detainee named Said (Incident O)), that the conduct was committed as part of the widespread and systematic attack directed against a civilian population, as required by article 7(1) of the Statute.

2. Legal findings on criminal responsibility

1748. Mr Said is alleged to be criminally responsible pursuant to article 25(3)(a) of the Statute as an individual, jointly with others, for the crimes charged by the Prosecution and confirmed by the Pre-Trial Chamber.[4999] In light of its findings regarding Mr Said's criminal responsibility pursuant to article 25(3)(a) of the Statute, as set out below, the Chamber considers it unnecessary to set out and consider the alternative modes of liability as charged by the Prosecution and confirmed by the Pre-Trial Chamber.[5000]

[4996] *See* above paras 632-633.
[4997] *See* above paras 1719-1740.
[4998] *See* above paras 1658, 1712.
[4999] Confirmation of Charges Decision, ICC-01/14-01/21-218-Red, pp. 58-59, paras 33-36.
[5000] Confirmation of Charges Decision, ICC-01/14-01/21-218-Red, pp. 59-60, paras 37-40, referring to ordering or inducing the commission of the crimes (article 25(3)(b) of the Statute). *See* above para. 898.

1749. The Chamber recalls that in order to be criminally responsible pursuant to article 25(3)(a) of the Statute, for the commission of crimes jointly with others, the following objective elements must be established: (i) the existence of an agreement or common plan between the accused and one or more other persons to commit the crimes or to engage in conduct which, in the ordinary course of events, would result in the commission of the crimes; and (ii) an essential contribution by the accused resulting in the realisation of the objective elements of the crime in question.[5001] The Chamber will address these elements in turn.

a) The existence of an agreement or common plan to commit crimes

1750. In the Confirmation of Charges Decision, the Pre-Trial Chamber found that there was a common plan or agreement between Mr Said, Nouradine Adam, Adoum Rakiss, Mahamat Sallet Adoum Kette, Damboucha, Fadoul Al Bachar,[5002] Tahir Babikir, Yaya Soumayele, and other OCRB Seleka to target perceived Bozizé supporters in Bangui by committing the charged crimes at the OCRB.[5003] The Pre-Trial Chamber held that the charged crimes 'were committed by the co-perpetrators, including Mr Said, and occurred within the framework, and resulted from the implementation of the [common plan]', which came into existence as soon as 12 April 2013.[5004]

1751. In order to establish whether there was an agreement or common plan between the alleged co-perpetrators to target perceived Bozizé supporters in Bangui through the commission of the crimes charged at the OCRB, the Chamber has examined its factual findings in respect of the operation and functioning of the OCRB during the period relevant to the charges, and the crimes that were being committed there. Furthermore, the Chamber has assessed the relationships between the alleged co-perpetrators at the OCRB, as well their roles in the functioning of the OCRB and their participation in the charged crimes committed there.

1752. At the outset, in respect of the broader context in which the OCRB operated, the Chamber

[5001] *See* above para. 900. *Contra* Defence Closing Brief, ICC-01/14-01/21-1039-Red, paras 600-602.
[5002] As set out above in its evidentiary analysis and factual findings regarding the co-perpetrators, other than his role in the mistreatment of P-0547, the Chamber received limited evidence regarding Fadoul Al Bachar's presence and role at the OCRB. The Chamber finds that this limited evidence regarding his involvement at the OCRB cannot establish a legal finding that he was a member of any common plan relating to the OCRB. Therefore, the Chamber has not considered him in the following legal findings. *See* above paras 924, 1158.
[5003] Confirmation of Charges Decision, ICC-01/14-01/21-218-Red, p. 58, para. 33.
[5004] Confirmation of Charges Decision, ICC-01/14-01/21-218-Red, p. 58, para. 33.

recalls its finding that the Seleka conducted a widespread and systematic attack against civilians they perceived to support François Bozizé following their takeover of Bangui on 24 March 2013.[5005] Detention and mistreatment of detainees was a key component of their attack and the Chamber notes that the Seleka set up a number of detention facilities in Bangui where they would detain and mistreat individuals, as well as extort money from family members for their release.[5006] One such facility was set up at the OCRB, which the Seleka used following their takeover of Bangui until 30 August 2013.[5007]

1753. The Chamber considers that the consistent manner in which the Seleka operated at the OCRB, indicates that there was an agreement or common plan to target perceived Bozizé supporters through the commission of the charged crimes at this location. When the Seleka brought individuals to the OCRB, the OCRB Seleka registered the detainees and questioned them about their identities.[5008] The OCRB Seleka did not comply with lawful procedures governing arrest and detention and did not generally afford detainees at the OCRB procedural guarantees, such as informing them of the reasons for their arrest and detention, informing their relatives of their whereabouts, providing them with legal assistance or producing them promptly before a competent authority.[5009]

1754. In addition, the Chamber notes that the OCRB Seleka held detainees in cells, including an underground cell, lacking basic amenities, and notes that there was no system in place to provide detainees with food and water, apart from family members providing detainees with food and water during visits.[5010] The OCRB Seleka routinely mistreated detainees, both physically and psychologically. In this regard, the Chamber recalls that detainees were frequently mistreated and tortured, including by tying them using the *arbatachar* method.[5011]

[5005] *See* above paras 848-851.
[5006] *See* above paras 617-618, 621-623. *See also* paras 943-945 (detention of P-2692 at Camp Kassai); 964-965, 1037-1043 (detention of 16 persons arrested in connection with the flyers, as well as P-2241, P-2400, P-2239 and [REDACTED] at Camp de Roux); 973-974 (detention of P-1429 and other individuals at [REDACTED]); 970; [REDACTED] (detention of 16 persons arrested in connection with the flyers and [REDACTED] at Ngaragba prison); 999-1000 (detention of P-3064, P-3056, P-3053 and another man at OCRB Ngouciment).
[5007] *See* above paras 619-620, 905-906.
[5008] *See* above para. 907.
[5009] *See* above para. 911. *See also* paras 933934-935 (Incident A); 937, 941 (Incident B); 952 (Incident G); 974, 976 (Incident I); 986 (Incident J); 990, 995, 996 (Incident L); 999, 1004 (Incident M); 1013, 1032 (Incident O); 1052, 1064 (Incident Q).
[5010] *See* above paras 909-910. *See also* paras 934, 939, 946, 966, 984, 994, 1015, 1051, 1055-1057, 1062.
[5011] *See* above para. 908. *See also* paras 934, 939-940, 947, 965, 968, 983-986, 992, 994, 1002-1003, 1010, 1013, 1016, 1020-1022, 1033, 1045, 1051, 1055-1056, 1060-1062, 1069, 1071-1072.

1755. In respect of the Defence's implication that this was a post-conflict situation where it was difficult to implement procedural safeguards and the Seleka were struggling to organise themselves in an attempt to stabilise the security situation in Bangui,[5012] as well as the submission that the OCRB Seleka operated as a support mission to the police officers stationed at the OCRB, the Chamber considers that the evidence does not support these assertions.[5013] In this regard, the Chamber notes that the evidence shows that Mr Said and the OCRB Seleka under his command exercised full control and discretion over the arrest and detention of individuals, and they were not accountable to the prosecutor or the police.[5014] The police at the OCRB were effectively sidelined by the Seleka, unable to exercise their normal functions, and had no control over the OCRB Seleka.[5015] Although the OCRB Seleka registered detainees and questioned them about their identities, this was not shared with the police or used for the purpose of ensuring due process.[5016] The police generally did not know whom the Seleka detained at the OCRB, or why they were detaining people and they could not remove detainees from the cells or bring them before a prosecutor.[5017] In short, the presence of the police at the OCRB was purely ornamental and the OCRB Seleka under Mr Said's command did as they pleased.[5018] The systematic manner in which the rights of those detained at the OCRB were not respected demonstrates a clear intention on the part of the Seleka to target and abuse detainees.[5019]

1756. Regarding how the OCRB operated, the Chamber recalls that the OCRB Seleka detained those whom they perceived to be Bozizé supporters, as well as others, including individuals who had allegedly committed crimes and some Seleka members.[5020] The Chamber considers the fact that some of the detainees were Seleka members and some detainees may have been detained for other reasons, and not because they were perceived to be associated with François Bozizé, does not undermine a conclusion that there was an agreement or common plan to target pro-Bozizé individuals. In this regard, it is unnecessary to determine that the OCRB Seleka exclusively targeted persons they

[5012] *Contra* Defence Closing Brief, ICC-01/14-01/21-1039-Red, paras 405-410.
[5013] *Contra* Defence Closing Brief, ICC-01/14-01/21-1039-Red, para. 610.
[5014] *See* above paras 911, 913-919, 929-931, 1006.
[5015] *See* above paras 929-931.
[5016] *See* above para. 907.
[5017] *See* above paras 907, 911, 931, 1085-1086.
[5018] *See* above para. 931.
[5019] *See* above para. 911. *See also* paras 933-935 (Incident A); 937, 941 (Incident B); 952 (Incident G); 974, 976 (Incident I); 986 (Incident J); 990, 995, 996 (Incident L); 999, 1004 (Incident M); 1013, 1032 (Incident O); 1052, 1064 (Incident Q).
[5020] *See* above para. 906.

perceived to be supporters of François Bozizé at the OCRB in order for the Chamber to make a positive finding regarding the existence of an agreement or common plan to target such individuals. The Chamber notes that the Prosecution's case focuses on 18 charged incidents which all involve alleged political targeting and the Chamber needs to be satisfied that, in respect of these charged crimes, there was a common plan to target perceived Bozizé supporters. The fact that other persons may have been detained and targeted at the OCRB does not impact the Chamber's conclusions regarding the existence of a common plan to target perceived Bozizé supporters at the OCRB through the commission of the charged crimes.

1757. Regarding the Seleka individuals who are alleged to be members of the agreement or common plan, the Chamber recalls that the OCRB fell under the remit of Nouradine Adam,[5021] who was Minister of Public Security during the period relevant to the charges,[5022] and who appointed Mr Said as head of the OCRB.[5023] Mr Said reported to Nouradine Adam[5024] and Nouradine Adam frequently attended the OCRB, gave orders to the OCRB Seleka,[5025] and was involved in the detention and mistreatment of detainees.[5026] For example, Nouradine Adam was involved in the interrogation of P-0481 regarding François Bozizé and his political beliefs,[5027] and was present, along with Adoum Rakiss and Mr Said, during the beating of the 'baker'.[5028] The Chamber further notes that Nouradine Adam coordinated with Mr Said regarding the provision of food to the OCRB Seleka and was responsible for issuing badges to the Seleka.[5029]

1758. The Chamber recalls that Nouradine Adam and Mr Said worked closely with a number of Seleka individuals, some of whom had roles within the wider Seleka structure and some of whom were directly stationed at the OCRB.[5030] The Chamber considers, as discussed further below, that the actions of these individuals were coordinated and could only have been concerted.

[5021] *See* above para. 920.
[5022] *See* above para. 920. *See also* para. 646.
[5023] *See* above paras 912, 920. *See also* para. 920.
[5024] *See* above para. 920.
[5025] *See* above para. 920. *See also* para. 1017.
[5026] *See* above para. 935.
[5027] *See* above para. 940.
[5028] *See* above para. 1010.
[5029] *See* above para. 920. *See also* para. 1027.
[5030] *See* above paras 921-923, 925-927.

1759. Turning first to the individuals who had roles within the wider Seleka structure, the Chamber notes that Adoum Rakiss was the Deputy Director General of the Police and worked closely with Nouradine Adam.[5031] By virtue of his role he was, in theory, the 'hierarchical head' of the OCRB, but the evidence before the Chamber is clear that Mr Said was in charge of the OCRB.[5032] Adoum Rakiss worked with Mr Said, bringing prisoners to the OCRB and participating in some missions to arrest individuals and mistreat detainees at the OCRB.[5033] Mahamat Sallet Adoum Kette, the Head of the Military Police, along with Damboucha, a Seleka colonel who coordinated the patrols of the military police, also played active roles in the functioning of the OCRB.[5034] Mahamat Sallet and Damboucha brought and removed detainees from the OCRB, some of whom were tied using the *arbatachar* method.[5035] For example, the Chamber recalls that Mahamat Sallet mistreated P-1289 during his transportation to, and following his detention at, the OCRB.[5036] Mr Said and Yaya were sometimes directly involved when Mahamat Sallet and Damboucha would remove detainees from the OCRB, and would facilitate detainees being put in Mahamat Sallet's and Damboucha's vehicles and driven away from the OCRB.[5037]

1760. In respect of the individuals who were directly stationed at the OCRB, as noted above, Mr Said was in charge of the OCRB and the Seleka members stationed there were under his control.[5038] The Chamber recalls that Tahir was Mr Said's deputy,[5039] Yaya was a commander under Mr Said's authority[5040] and Noiro was designated as a guard of the underground cell at the OCRB by Mr Said.[5041]

1761. The Chamber finds that these individuals stationed at the OCRB worked closely with Mr Said.[5042] Specifically, the Chamber recalls that Tahir and Yaya were involved in

[5031] *See* above para. 921.
[5032] *See* above para. 921.
[5033] *See* above paras 921, 1009-1010.
[5034] *See* above paras 922-923.
[5035] *See* above para. 923.
[5036] *See* above paras 933-934.
[5037] *See* above para. 923.
[5038] *See* above paras 913-916, 919.
[5039] *See* above para. 925.
[5040] *See* above para. 926.
[5041] *See* above para. 927.
[5042] *See* above paras 925-927. The Chamber also recalls that a number of the co-perpetrators stationed at the OCRB interacted with number of the co-perpetrators who had wider roles within the Seleka structure. Specifically, the Chamber recalls its findings that Mr Said, along with Yaya, facilitated the removal of prisoners from the cells to be put in Sallet's and Damboucha's vehicles to be driven away from the OCRB. *See* above para. 923.

extorting money from the families of detainees at the OCRB, along with Mr Said,[5043] and participated in the detention and mistreatment of detainees.[5044] For example, the Chamber recalls that Tahir ordered the OCRB Seleka to tie up and beat P-2931 and place him in the underground cell.[5045] The Chamber notes that P-2931 was arrested during an intervention ordered by Mr Said to detain P-2931's [REDACTED], Oswald Sanze, a FACA member perceived to be associated with François Bozizé.[5046] Similarly, Yaya and Tahir were involved in the mistreatment of [REDACTED].[5047]

1762. Last, the Chamber notes that the OCRB Seleka, who were under the authority of Mr Said, were present during and/or directly participated in the detention and mistreatment of the following persons: P-1289 (Incident A); P-0481 (Incident B); P-2692 (Incident C); one man ([REDACTED]) (Incident G); the 16 persons suspected of involvement in the distribution of flyers calling for a *ville morte* (Incident H); Oswald Sanze and P-2931 (Incident J); P-2519 (Incident L); P-3053, P-3056, P-3064 and another man ([REDACTED]) (Incident M); the 'baker' (Incident N); P-0547 (Incident O); P-2400, P-2241, 2239 and a man named [REDACTED] (Incident Q); and various other men in the underground cell (Incident R). The Chamber also notes the presence of the OCRB Seleka during and/or direct participation in the detention of P-1429 and the two other men (Incident I), as well as another man ([REDACTED]) (Incident J).

1763. During interrogations, OCRB Seleka members beat and/or threatened detainees while asking them for information on Bozizé,[5048] or otherwise accused detainees of being 'pro-Bozizé' and against the Seleka regime.[5049] They threatened P-2931 and other Christian detainees in the cell with him for praying.[5050] OCRB Seleka members swore at P-0481 and said that he had a great deal of information on Bozizé,[5051] and interrogated P-2692 about his relationship with a public personality from Boy Rabe linked to François Bozizé, and threatened to kill him if he did not tell the truth.[5052]

[5043] *See* above paras 918, 925-926.
[5044] *See* above paras 925-926.
[5045] *See* above para. 983. The Chamber also recalls that Tahir himself slapped P-2931 and questioned him about a weapon belonging to [REDACTED].
[5046] *See* above paras 978-981.
[5047] *See* above paras [REDACTED].
[5048] *See* above paras 935, 940, 1003, 1010.
[5049] *See* above para. 968.
[5050] *See* above para. 984. *See also* para. 968.
[5051] *See* above para. 940.
[5052] *See* above para. 946.

1764. The Chamber considers that the actions of these individuals, as well as the relationships between them and with Mr Said, show there was coordination between them to target perceived Bozizé supporters and detain and mistreat them at the OCRB. As shown by the evidence and as stated above, these individuals were actively involved, in varying capacities, in the implementation of elements of the plan and their activities were interconnected. They interacted with one another in different combinations during the execution of the common plan.

1765. The Chamber accordingly determines that these individuals jointly committed the crimes and intended to contribute to the commission of the crimes through their respective actions as described above. By virtue of the presence of the co-perpetrators during and their direct participation in the detention of persons perceived to be Bozizé supporters, the Chamber finds that the only reasonable conclusion is that they were aware of the factual circumstances establishing the gravity of their conduct (for the purposes of the elements of the crimes relevant to article 7(1)(e) of the Statute). Similarly, given their participation in the mistreatment of detainees and in sustaining the deplorable conditions of detention at the OCRB, the Chamber finds that the only reasonable conclusion is that the co-perpetrators were aware of the factual circumstances establishing the nature and gravity of the inhumane acts that they inflicted on the detainees (for the purposes of the elements of the crimes relevant to article 7(1)(k) of the Statute). Finally, having regard to its findings on the manner in which the co-perpetrators targeted individuals perceived to be associated with Bozizé, on intersecting discriminatory political, ethnic, religious and/or gender grounds,[5053] the Chamber finds that the crimes were carried out with the requisite discriminatory intent to establish the crime of persecution under article 7(1)(h) of the Statute. The Chamber also considers that these individuals knew and intended their conduct to be part of a widespread and systematic attack by the Seleka against the civilian population perceived to support Bozizé.

1766. Based on the foregoing, the Chamber finds that the only reasonable conclusion based on the evidence is that there was an agreement or common plan between Mr Said, Nouradine Adam, Adoum Rakiss, Mahamat Sallet Adoum Kette, Damboucha, Tahir Babikir, Yaya Soumayele aka Soumaine and Noiro aka Nassir Abderraman and other OCRB Seleka to target perceived Bozizé supporters in Bangui by committing the crimes charged at the

[5053] *See* above paras 1720-1740.

OCRB. These co-perpetrators were frequently present at the OCRB, directly participated in the implementation of the plan and acted with the same common agreement.

1767. In respect of the date the common plan came into existence, the Chamber recalls that Mr Said became the head of the OCRB on his arrival at the OCRB in mid to late April 2013 and remained in this position (apart from a short absence) until the Seleka's departure from the OCRB on 31 August 2013.[5054] The Chamber further recalls that the first charged incident for which it has entered factual findings took place on or around 15 May 2013.[5055] Accordingly, the Chamber determines that the common plan was in existence no later than the date of the first charged incident and throughout the period relevant to the incidents established above.

b) Mr Said's essential contribution

1768. Before its assessment of whether Mr Said made an essential contribution to the implementation of the common plan, the Chamber will first assess the Prosecution's allegation that Mr Said was a 'senior member of the Seleka'.[5056] In support of this proposition, the Prosecution makes reference to the fact that Mr Said had direct access to Michel Djotodia, on whose behalf Mr Said held detainees in the underground cell, and that Mr Said 'met and addressed Djotodia directly on several occasions including at Camp de Roux'.[5057]

1769. The Chamber notes that in the context of his role at the OCRB, Mr Said may have been responsible for detaining Michel Djotodia's detainees and may have met with him on several occasions. However, these considerations alone are insufficient to allow the Chamber to conclude on the level of seniority of Mr Said within the Seleka coalition.

1770. In assessing whether Mr Said made an essential contribution resulting in the realisation of the objective elements of the crimes charged, the Chamber recalls that it need not find that Mr Said made an essential contribution to a specific crime; rather it suffices that the essential contribution be to the implementation of the agreement or common plan more

[5054] *See* above paras 912-913.
[5055] *See* above para. 933.
[5056] Prosecution Trial Brief, ICC-01/14-01/21-359-Red, para. 110; Prosecution Closing Brief, ICC-01/14-01/21-1027-Red, para. 109.
[5057] Prosecution Trial Brief, ICC-01/14-01/21-359-Red, para. 110; Prosecution Closing Brief, ICC-01/14-01/21-1027-Red, para. 109.

generally.[5058] In determining whether Mr Said made an essential contribution to the common plan that resulted in the commission of the charged crimes, the Chamber has assessed the role that Mr Said was assigned and the functions he carried out at the OCRB, as well as his direct involvement in the charged crimes.

1771. At the outset, the Chamber recalls its findings that Mr Said was detained at the SRI/SERD for a limited time on 10 June 2013 and had returned to the OCRB by 27 June 2013.[5059] In this regard, the Chamber recalls that it has not been established beyond reasonable doubt that Mr Said was in charge of the OCRB during this time. As noted above, the Chamber recalls that three incidents for which it has established the commission of crimes at the OCRB are alleged to have or may have partly taken place during this time, namely Incidents B, C and R.[5060] The Chamber does not consider Mr Said to be criminally responsible for conduct in those parts of these incidents which took place during the period in which he was absent from the OCRB. It refers to events during Mr Said's absence only to the extent that they are relevant to the involvement of the co-perpetrators in relation to activities in the OCRB and their participation in the implementation of the common plan.[5061]

1772. The Chamber recalls that, as of mid to late April 2013, Nouradine Adam appointed Mr Said to be in charge of the OCRB.[5062] All the OCRB Seleka were under Mr Said's command and reported to him.[5063] Mr Said had control over access to the weapons at the OCRB, and provided uniforms and food to the OCRB Seleka.[5064] Mr Said was the *de facto* top ranking official at the OCRB and when it came to orders and reports, everything went through him.[5065]

1773. The Chamber recalls that Mr Said had control over access to the cells at the OCRB and had to be told if detainees were to be detained and if they were to be released.[5066]

[5058] *See* above para. 902. *Contra* Defence Closing Brief, ICC-01/14-01/21-1039-Red, paras 617-627.
[5059] *See* above para. 912.
[5060] *See* above paras 1591-1596. The Chamber notes that it cannot exclude that the detention and mistreatment of [REDACTED] and [REDACTED] under Incident R took place during the time that Mr Said was detained at the SRI/SERD. In any event, the Chamber could not determine that the crimes against these individuals were part of the attack against the civilian population.
[5061] *See* above para. 1596.
[5062] *See* above para. 912.
[5063] *See* above para. 913.
[5064] *See* above para. 916.
[5065] *See* above para. 913.
[5066] *See* above paras 914-915.

Similarly, the Chamber recalls that Mr Said issued instructions and orders in respect of detainees at the OCRB.[5067] For example, following his arrival at the OCRB, P-2400 was registered and told by Tahir to await Mr Said's instructions before Mr Said ordered the Seleka to place him (P-2400) in the underground cell.[5068] The Chamber recalls that Mr Said ordered that several detainees be placed in cells,[5069] including the underground cell,[5070] following their arrival at the OCRB. The Chamber also recalls that Mr Said was aware of the poor conditions of the cells at the OCRB.[5071]

1774. The Chamber recalls that Mr Said was involved in the interrogation and mistreatment of detainees at the OCRB.[5072] The Chamber also notes that Mr Said gave orders for the OCRB Seleka to beat detainees.[5073] In addition, the Chamber observes that Mr Said was present when detainees were being beaten and tortured at the OCRB.[5074] For example, Mr Said was present, along with Rakiss and Nouradine Adam, when the 'baker', who had been tied *arbatachar*, was beaten by the OCRB Seleka and questioned as to where they could find Bozizé's inner circle.[5075] Furthermore, in respect of his authority and role in the release of detainees at the OCRB, the Chamber recalls that Mr Said extorted money for the release of detainees, along with Tahir and Yaya.[5076] For example, Mr Said released P-2400 after receiving money from P-2337, providing P-2400 with a release document proving his release.[5077]

1775. Mr Said also decided what interventions would be carried out by the OCRB Seleka, established planning lists concerning patrols and participated in arrests.[5078] For example, the Chamber recalls that Mr Said ordered the OCRB Seleka to 'arrest' FACA member Oswald Sanze and retrieve him 'dead or alive', as a result of which the OCRB Seleka brought P-2931 to the OCRB and handed him over to Mr Said, following which P-2931 was mistreated by Tahir.[5079] Mr Said gave instructions for P-1289 to be arrested and

[5067] *See* above paras 914, 953, 1050.
[5068] *See* above para. 1045.
[5069] *See* above para. 974.
[5070] *See* above paras 1001, 1024, 1045.
[5071] *See* above paras 909-910, 912, 917.
[5072] *See* above para. 917.
[5073] *See* above para. 917.
[5074] *See* above paras 917, 1028.
[5075] *See* above para. 1010.
[5076] *See* above paras 918, 925-926.
[5077] *See* above para. 1053.
[5078] *See* above para. 919.
[5079] *See* above paras 978, 982-983.

personally participated in the arrest operation.[5080] Mr Said also participated in the arrest of the 'baker'.[5081]

1776. Taking the foregoing together, the Chamber considers Mr Said's actions as described above to 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 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.

1777. This conclusion is unaffected by the Chamber's findings that Mr Said would receive orders from and collaborated with a number of high-ranking Seleka individuals, namely Nouradine Adam, Adoum Rakiss and Mahamat Sallet Adoum Kette.[5082] In this regard, the Chamber notes that Mr Said was the *de facto* top ranking official at the OCRB and there is no indication that he received specific instructions from senior Seleka members on every aspect of his management and control of the premises, the Seleka members under his authority, and the detainees, whom he personally supervised and had control over. Furthermore, the Chamber recalls that Nouradine Adam, Adoum Rakiss and Mahamat Sallet were senior Seleka members who had roles in the wider Seleka structure and the OCRB was one of multiple detention facilities. The fact that these individuals may have given instructions to or collaborated with Mr Said demonstrates the level of coordination between Mr Said and the co-perpetrators in furtherance of the common plan, but does not negate the level of authority that Mr Said had over the functioning of the OCRB.

c) *Mens rea* or subjective elements

1778. Pursuant to article 30 of the Statute, the Chamber must establish whether the charged

[5080] *See* above para. 933.
[5081] *See* above para. 1009.
[5082] *See* above paras 920-922.

crimes were committed with the necessary intent and knowledge. It is necessary, therefore, for the Chamber to be satisfied that Mr Said: (i) intended to participate in the implementation of the common plan and; (ii) intended the execution of the material elements of the charged crimes.[5083]

1779. In view of Mr Said's role and functions at the OCRB and his participation in the commission of crimes there, the Chamber considers that the only reasonable inference is that Mr Said intended to participate in the implementation of the common plan to target perceived Bozizé supporters in Bangui by committing the crimes charged at the OCRB jointly with the co-perpetrators. Specifically, the Chamber recalls that the evidence establishes that Mr Said was in charge of the OCRB and had overall command over the OCRB Seleka carrying out those crimes.[5084] In this regard, the Chamber recalls that, except for a limited time from 10 June to no later than 26 June 2013, Mr Said was present on a daily basis at the OCRB.[5085] The Chamber notes that instructions ultimately came from Mr Said and he issued orders relating to the detainees.[5086] He would decide where they would be detained and had to be notified if they were to be released, signing his name on a number of release notes which were given to detainees.[5087] In this respect, Mr Said also had control over access to the cells at the OCRB and would have to give his permission in order for the police to be able to open the cells.[5088]

1780. The Chamber further notes that, by virtue of his daily presence at the OCRB and the direct evidence from witnesses, it is clear that Mr Said was aware of the poor conditions of the cells and the torture and mistreatment of detainees.[5089] In respect of the underground cell, in which multiple detainees were held, the Chamber recalls its findings that it was located in Mr Said's office in the main OCRB building, and that he ordered multiple detainees to be imprisoned in the underground cell.[5090]

[5083] The Chamber notes that the jurisprudence of the Court provides an alternative to the latter requirement that the accused intended the execution of the material elements of the charged crimes, namely, that the accused was aware that the charged crimes would occur in the ordinary course of events as a result of the implementation of the common plan. In light of the fact that the Chamber has determined that the common plan was to commit the charged crimes at the OCRB, the Chamber finds that the alternative is not applicable in the present circumstances.
[5084] *See* above para. 913.
[5085] *See* above para. 912.
[5086] *See* above paras 912, 914-919.
[5087] *See* above para. 914.
[5088] *See* above para. 915.
[5089] *See* above paras 908-910, 912, 917.
[5090] *See* above paras 910, 914.

1781. Mr Said's intent and knowledge are also evident from the fact that he was directly involved in or ordered the detention and mistreatment, including torture, of individuals at the OCRB, as well as other criminal behaviour.[5091] The Chamber also found that Mr Said observed the mistreatment, including torture, of detainees or was informed of such mistreatment having occurred.[5092] Similarly, in respect of those detained at the OCRB, Mr Said was personally involved in extorting money in exchange for the release of detainees.[5093] The Chamber further notes that Mr Said was directly involved in a number of the incidents established above, in which perceived Bozizé supporters were targeted and mistreated at the OCRB, which was under Mr Said's command.[5094]

1782. The Chamber also notes that Mr Said interacted with the co-perpetrators on multiple occasions during the period relevant to the charges and his actions demonstrate that he intended to participate in the implementation of the common plan with these co-perpetrators. In this regard, the Chamber recalls that, in his position at the OCRB, Mr Said worked closely with the co-perpetrators in execution of the common plan. Specifically, Mr Said received orders from Nouradine Adam and directly participated in the mistreatment of detainees along with other co-perpetrators.[5095] Mr Said worked closely with Adoum Rakiss, who participated in some missions to arrest individuals and mistreat detainees at the OCRB, as well as facilitating the removal of detainees from the OCRB by Mahamat Sallet and Damboucha.[5096] In addition, Mr Said worked closely with and had overall control over the Seleka members stationed at the OCRB, such as Tahir, who was Mr Said's deputy, Yaya, Noiro, and other OCRB Seleka who were all involved in the arrest, detention and mistreatment of detainees at the OCRB.[5097]

1783. Given Mr Said's role and position of authority at the OCRB, the control he exercised over the OCRB Seleka, and his knowledge of and participation in the crimes that were being committed there, the Chamber considers that he intended to participate in the implementation of the common plan and that he intended the execution of the material elements of the charged crimes, even if he did not directly participate in or witness all of

[5091] *See* above paras 914, 917.
[5092] *See* above paras 917, 1010, 1069.
[5093] *See* above para. 918.
[5094] *See* above paras 933, 953, 974, 978, 982, 1001, 1009-1010, 1024, 1045, 1053, 1061, 1063, 1065.
[5095] *See* above para. 920.
[5096] *See* above paras 921-923.
[5097] *See* above paras 913, 925-928.

the crimes.

1784. The Chamber now turns to the specific *mens rea* requirements concerning a number of the charged crimes, namely the crimes against humanity of imprisonment or other severe deprivation of physical liberty under article 7(1)(e) of the Statute,[5098] persecution under article 7(1)(h) of the Statute [5099] and other inhumane acts under article 7(1)(k) of the Statute.[5100] First, in respect of imprisonment or other severe deprivation of physical liberty, the Chamber considers that Mr Said was aware of the factual circumstances that established the gravity of conduct. In this regard, the Chamber notes that Mr Said exercised control over the cells at the OCRB.[5101] Similarly, by virtue of his presence, role and functions at the OCRB, Mr Said knew that detainees at the OCRB were denied any procedural guarantees.[5102] Second, in respect of persecution, the Chamber notes that the common plan had a discriminatory aspect, namely the targeting of those perceived to be Bozizé supporters.[5103] In this regard, the Chamber notes Mr Said directly participated in a number of the incidents as addressed above in which the victims were targeted on the basis that they were perceived to be Bozizé supporters.[5104] In addition, the Chamber notes that Mr Said was in charge of the OCRB and exercised control over and issued orders to the OCRB Seleka who directly targeted perceived Bozizé supporters through the commission of the charged crimes.[5105] Last, in respect of other inhumane acts, the Chamber considers that Mr Said was aware of the factual circumstances which established the character of the act. In this regard, the Chamber notes that Mr Said actively participated in the arrest, mistreatment and detention of detainees and issued orders to the OCRB Seleka to detain and mistreat detainees.[5106] Accordingly, the Chamber finds that the specific *mens rea* requirements for these charged crimes are fulfilled.

1785. Finally, in respect of the requirement that Mr Said knew and intended for his conduct to

[5098] Paragraph 3 to the Elements of Crimes, article 7(1)(e) of the Statute– The perpetrator was aware of the factual circumstances that established the gravity of the conduct.
[5099] Paragraph 2 to the Elements of Crimes, article 7(1)(h) of the Statute – The perpetrators targeted such person or person by reason of the identity of a group or collectivity or targeted the group or collectivity as such.
[5100] Paragraph 3 to the Elements of Crimes, article 7(1)(k) of the Statute – The perpetrator was aware of the factual circumstances that established the character of the act.
[5101] *See* above paras 914-915.
[5102] *See* above paras 911-919.
[5103] *See* above para. 1767.
[5104] *See* above paras 933, 953, 974, 978, 982, 1001, 1009-1010, 1024, 1045, 1053, 1061, 1063, 1065.
[5105] *See* above para. 913.
[5106] *See* above paras 933, 974, 978, 982, 1001, 1009-1010, 1024, 1045, 1065.

be part of the widespread and systematic attack against the civilian population in Bangui perceived to be Bozizé supporters, the Chamber notes that the crimes committed took place at the OCRB, where Mr Said was in charge.[5107] The Chamber further notes that Mr Said was appointed to the OCRB by Nouradine Adam, who was Minister of Public Security and who played a leading role in the attack against the civilian population perceived to be Bozizé supporters.[5108] The Chamber notes that while at the OCRB, Mr Said reported to Nouradine Adam and Nouradine Adam gave him instructions.[5109] Mr Said also worked closely with a number of other senior Seleka who had roles in the wider Seleka structure, for example, Adoum Rakiss and Mahamat Sallet.[5110] In these circumstances, the Chamber notes that Mr Said participated in crimes at the OCRB alongside a number of senior Seleka members who were involved in the overarching attack against the civilian population perceived to support François Bozizé. In particular, the Chamber recalls that a number of detainees were detained and mistreated at other facilities before being brought to the OCRB,[5111] and Mr Said was present for the removal of prisoners from the OCRB by Mahamat Sallet and Damboucha, who drove detainees away from the OCRB to other locations.[5112] Accordingly, the Chamber is satisfied beyond reasonable doubt that Mr Said knew that his conduct was part of a widespread and systematic attack against the civilian population of Bangui perceived to be supportive of Francois Bozizé.

1786. Taking the foregoing into consideration, the Chamber considers that the charged crimes were committed with the necessary intent and knowledge.

V. VERDICT

1787. For the foregoing reasons and on the basis of the evidence submitted and discussed before this Chamber at trial and the entire proceedings, pursuant to article 74(2) of the Statute, **THE CHAMBER FINDS**

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[5107] *See* above para. 913.
[5108] *See* above paras 852, 855, 864, 920.
[5109] *See* above para. 920.
[5110] *See* above paras 921-923.
[5111] *See* above paras 943-945, 957-965, 970-971, 973-974, 996, 999-1001, 1037-1043.
[5112] *See* above paras 922-923.

1788. Under **Count 1** of the charges, with respect to the **crime against humanity of imprisonment or other severe deprivation of physical liberty** pursuant to article 7(1)(e) of the Statute:

GUILTY under article 25(3)(a) of the Statute in respect of:

Incident A: P-1289;

Incident B: P-0481, limited to the period from [REDACTED] to [REDACTED] 2013;

Incident C: P-2692, limited to the period from 27 June to [REDACTED] July 2013;

Incident G: one man ([REDACTED]);

Incident H: 16 persons, including P-1180, P-1743, P-2263 and P-2295;

Incident I: P-1429 and two other men;

Incident J: Oswald Sanze, P-2931 and another man ([REDACTED]);

Incident L: P-2519;

Incident M: four men (P-3064, P-3056, P-3053 and another man ([REDACTED]));

Incident N: the 'baker';

Incident O: P-0547;

Incident Q: four persons (P-2241, P-2400, P-2239 and another man ([REDACTED])); and

Incident R: various other men [REDACTED] and [REDACTED]).

NOT GUILTY under articles 25(3)(a) or 25(3)(b) of the Statute in respect of:

Incident D: P-0645 (Incident D);

Incident E: P-0622 and [REDACTED] other persons;

Incident F: three persons;

Incident K: P-2172;

Incident O: the short boy from Burundi, the detainee named [REDACTED] and the Koranic school teacher named [REDACTED] detained at the same time as P-0547;

Incident P: P-2179;

Incident Q: the older man; and

Incident R: three men ([REDACTED], [REDACTED] and [REDACTED]).

Under **Count 2** of the charges, with respect to the **crime against humanity of torture** pursuant to article 7(1)(f) of the Statute:

GUILTY under article 25(3)(a) of the Statute in respect of:

Incident H: 16 persons, including P-1180, P-1743, P-2263 and P-2295;

Incident L: P-2519;

Incident N: the 'baker';

Incident O: P-0547;

Incident Q: P-2400; and

Incident R: two men ([REDACTED] and [REDACTED]).

NOT GUILTY under articles 25(3)(a) or 25(3)(b) of the Statute in respect of:

Incident B: P-0481;

Incident E: P-0622;

Incident F: three persons;

Incident M: four men (P-3064, P-3056, P-3053 and another man ([REDACTED]));

Incident P: P-2179; and

Incident Q: four persons (P-2241, P-2239, [REDACTED] and the older man).

Under **Count 3** of the charges, with respect to the **war crime of torture** pursuant to article 8(2)(c)(i)-4 of the Statute:

NOT GUILTY under articles 25(3)(a) or 25(3)(b) of the Statute.

Under **Count 4** of the charges, with respect to the **war crime of cruel treatment** pursuant to article 8(2)(c)(i)-3 of the Statute:

NOT GUILTY under articles 25(3)(a) or 25(3)(b) of the Statute.

Under **Count 5** of the charges, with respect to the **crime against humanity of other inhumane acts** pursuant to article 7(1)(k) of the Statute:

GUILTY under article 25(3)(a) of the Statute in respect of:

Incident A: P-1289;

Incident B: P-0481, limited to the period from [REDACTED] to [REDACTED] 2013;

Incident C: P-2692, limited to the period from 27 June to [REDACTED] July 2013;

Incident H: 16 persons, including P-1180, P-1743, P-2263 and P-2295;

Incident J: Oswald Sanze and P-2931;

Incident L: P-2519;

Incident M: four men (P-3064, P-3056, P-3053 and another man ([REDACTED]));

Incident N: the ‘baker’;

Incident O: P-0547;

Incident Q: four men (P-2241, P-2400, P-2239 and another man

([REDACTED])); and

Incident R: two men ([REDACTED] and [REDACTED]).

NOT GUILTY under articles 25(3)(a) or 25(3)(b) of the Statute in respect of:

Incident D: P-0645;

Incident E: P-0622 and [REDACTED] other persons;

Incident F: three persons;

Incident G: one man ([REDACTED]);

Incident I: P-1429 and two other men;

Incident J: one man ([REDACTED]);

Incident K: P-2172;

Incident O: the short boy from Burundi, the detainee named [REDACTED] and the Koranic school teacher named [REDACTED] detained at the same time as P-0547;

Incident P: P-2179;

Incident Q: the older man and the unidentified man who was beaten at the OCRB; and

Incident R: three men ([REDACTED], [REDACTED] and [REDACTED]).

Under **Count 6** of the charges, with respect to the **war crime of outrages upon personal dignity** pursuant to article 8(2)(c)(ii) of the Statute:

NOT GUILTY under articles 25(3)(a) or 25(3)(b) of the Statute.

Under **Count 7** of the charges, with respect to the **crime against humanity of persecution** pursuant to articles 7(1)(h) of the Statute:

GUILTY under article 25(3)(a) of the Statute in respect of:

Incident A: P-1289;

Incident B: P-0481, limited to the period from [REDACTED] to [REDACTED] 2013;

Incident C: P-2692, limited to the period from 27 June to [REDACTED] July 2013;

Incident G: one man ([REDACTED]);

Incident H: 16 persons, including P-1180, P-1743, P-2263 and P-2295;

Incident I: P-1429 and two other men;

Incident J: Oswald Sanze, P-2931 and another man ([REDACTED]);

Incident L: P-2519;

Incident M: four men (P-3064, P-3056, P-3053 and another man ([REDACTED]));

Incident N: the 'baker';

Incident O: P-0547;

Incident Q: four persons (P-2241, P-2400, P-2239 and another man ([REDACTED])); and

Incident R: [REDACTED] and [REDACTED].

NOT GUILTY under articles 25(3)(a) or 25(3)(b) of the Statute in respect of:

Incident D: P-0645;

Incident E: P-0622 and [REDACTED] other persons;

Incident F: three persons;

Incident K: P-2172;

Incident P: P-2179; and

Incident R: three persons ([REDACTED], [REDACTED] and [REDACTED]).

Done in both English and French, the English version being authoritative.



Judge Miatta Maria Samba
Presiding Judge



Judge María del Socorro Flores Liera



Judge Sergio Gerardo Ugalde Godínez

Dated 23 September 2026

At The Hague, The Netherlands