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**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

**No. ICC-01/14
Date: 7 December 2018**

PRE-TRIAL CHAMBER II

**Before: Judge Antoine Kesia-Mbe Mindua, Presiding Judge
Judge Tomoko Akane
Judge Rosario Salvatore Aitala**

SITUATION IN THE CENTRAL AFRICAN REPUBLIC II

Under Seal, *EX PARTE*, only available to the Prosecutor

Warrant of Arrest for Edmond Beina

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

The Office of the Prosecutor

Fatou Bensouda, Prosecutor
James Stewart, Deputy Prosecutor

Counsel for the Defence

Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparations**

**The Office of Public Counsel for
Victims**

**The Office of Public Counsel for the
Defence**

States Representatives

Amicus Curiae

REGISTRY

Registrar

Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

PRE-TRIAL CHAMBER II (the “Chamber”) of the International Criminal Court (the “Court” or “ICC”) issues this warrant of arrest pursuant to article 58(1) of the Rome Statute (the “Statute”) for

Edmond BEINA¹

also known as “BEINA of Tedoa”, “BEÏNA”, or “BAINA”, a national of the Central African Republic (“CAR”), aged approximately 35-45 years old,² reported to be from Tedoa³ and to reside in Mbaina (Topia municipality).⁴

I. Procedural History

1. On 30 May 2014, the Government of the CAR referred the situation in the CAR since 1 August 2012 to the Court.⁵

2. On 30 October 2018, the Prosecutor submitted under seal, *ex parte*, the application for the issuance of a warrant of arrest (the “Application”) for Edmond Beina (“Beina”) for the following crimes within the Court’s jurisdiction committed in Guen, a village in Mambere-Kadei Prefecture, between at least 1 February to early April 2014 by militias, collectively known as the Anti-Balaka:⁶

- (i) extermination or, alternatively, murder and attempted murder (articles 7(1)(a) and (b), and 8(2)(c)(i) of the Statute);
- (ii) deportation or forcible transfer (article 7(1)(d) of the Statute) and displacement of civilian population (article 8(2)(e)(viii) of the Statute);
- (iii) rape and attempted rape (articles 7(1)(g) and 8(2)(e)(vi) of the Statute);
- (iv) intentionally directing attacks against the civilian population (article 8(2)(e)(i) of the Statute);
- (v) pillaging (article 8(2)(e)(v) of the Statute);
- (vi) destruction of the adversary’s property (article 8(2)(e)(xii) of the Statute); and
- (vii) persecution (article 7(1)(h) of the Statute).⁷

¹ The first name of the suspect is unconfirmed, *see* CAR-OTP-2001-0835 at 0980; CAR-OTP-2001-2301.

² CAR-OTP-2067-1508; CAR-OTP-2067-1510.

³ CAR-OTP-2018-0761 at 0765, para. 22; CAR-OTP-2022-0031 at 0050, para. 114; CAR-OTP-2082-0075 at 0094, lines 712-718.

⁴ CAR-OTP-2080-0784 at 0802, para. 92; CAR-OTP-2091-0889 at 0897, lines 263-264.

⁵ The letter is annexed to the decision assigning the situation to the Chamber; *see* Presidency, Decision Assigning the Situation in the Central African Republic II to Pre-Trial Chamber II, 18 June 2014, ICC-01/14-1-Anx1.

⁶ ICC-01/14-18-US-Exp, together with 11 under seal, *ex parte* annexes.

⁷ ICC-01/14-18-US-Exp, paras 38 and 292.

II. Jurisdiction and Admissibility

3. The Chamber finds that, pursuant to article 19(1), first sentence, of the Statute, on the basis of the materials submitted and without prejudice to future determinations on the matter, the case against Beina falls within the jurisdiction of the Court.⁸ The Chamber is satisfied that the incidents described in the Application amount to crimes against humanity and war crimes that have taken place after 1 August 2012 on the territory of the CAR (article 12(2)(a) of the Statute) and were associated with the conflict underlying the referral of the CAR Government.

4. The Chamber declines, at this stage, to use its discretionary *proprio motu* power pursuant to article 19(1), second sentence, of the Statute⁹ to determine the admissibility of the case against Beina as there is no ostensible cause or self-evident factor which impels it to do so.

III. Requirements of Article 58(1) of the Statute

1. *Whether Beina has committed a crime under the jurisdiction of the Court (Article 58(1)(a) of the Statute)*

5. **The Conflict and Armed Groups Involved.** Dissatisfied with the government of the then President François Bozizé, an armed movement by the name of “Seleka”,¹⁰ emerged around August 2012 in north-eastern CAR.¹¹ Led by Michel Djotodia, the Seleka consisted of a coalition of several previously uncoordinated political factions and armed groups, predominantly composed of Muslims, which were formed years before to resist the government forces when Bozizé seized power in 2003. In the course of time also Sudanese and Chadian nationals joined the fighters.¹² From late 2012 to early 2013, the Seleka advanced southwards towards the capital, Bangui, attacking police stations, occupying military bases, capturing various towns and

⁸ Appeals Chamber, *The Prosecutor v Thomas Lubanga Dyilo*, Judgment on the Appeal of Mr. Thomas Lubanga Dyilo against the Decision on the Defence Challenge to the Jurisdiction of the Court pursuant to article 19(2)(a) of the Statute of 3 October 2006, ICC-01/04-01/06-772, 14 December 2006, paras 21-22.

⁹ Appeals Chamber, *Situation in the Democratic Republic of the Congo*, Judgment on the Prosecutor’s appeal against the decision of Pre-Trial Chamber I entitled “Decision on the Prosecutor’s Application for Warrants of Arrest, Article 58”, ICC-01/04-169, 13 July 2006, paras 1-2, 52.

¹⁰ “Seleka” means “coalition” or “alliance” in the Sango language; see CAR-OTP-2001-2890 at 2897.

¹¹ CAR-OTP-2001-2769 at 2831; CAR-OTP-2001-1976 at 1989; CAR-OTP-2001-7017 at 7067, paras 167-168; CAR-OTP-2034-0104 at 0110, para. 26.

¹² CAR-OTP-2001-2769 at 2777, 2832-2835; CAR-OTP-2001-1976 at 1989-1990; CAR-OTP-2001-5739 at 5751-5753; CAR-OTP-2001-7017 at 7034, para. 44, at 7067, paras 167-168; CAR-OTP-2034-0104 at 0113, para. 51.

regional capitals, and targeting those suspected to support François Bozizé.¹³ Notwithstanding a cease-fire agreement signed on 11 January 2013 in Libreville, Gabonese Republic,¹⁴ the Seleka captured Bangui on 24 March 2013 with the use of heavy weaponry, including mounted machine guns, mortars and rocket-propelled grenades.¹⁵ François Bozizé was forced into exile in the Republic of Cameroon (“Cameroon”) and Michel Djotodia proclaimed himself President of the CAR.¹⁶ Over the ensuing months, the Seleka forces,¹⁷ swelling approximately from 5,000 to 15,000-20,000 members,¹⁸ expanded their territorial control, suppressing resistance in the western regions associated with François Bozizé and his ethnic group Gbaya, and subjecting the civilian population, mainly non-Muslim, to attacks and atrocities, including summary executions, rape and sexual violence, torture, arbitrary arrests and detention, looting and property destruction (burning down houses).¹⁹

6. In response to the 24 March 2013 *coup*, various members of François Bozizé’s inner circle, including his son Jean-Francis, Patrice-Edouard Ngaïssona, Bernard Mokom and Maxime Mokom Gawaka, organized a pro-Bozizé countermovement, composed of *Forces Armées Centrafricaines* and former *Garde Présidentielle* members as well as pre-existing and new self-defence groups.²⁰ The self-defence groups were gathered at Gobere, north of Bossangoa, in western CAR and organised into a military-like structure.²¹ The movement came to be known as “Anti-Balaka”.²² Their objectives were to (i) remove Michel Djotodia from power, defend against and

¹³ CAR-OTP-2001-5739 at 5759; CAR-OTP-2034-0104 at 0113, paras 51-52; CAR-OTP-2084-0191 at 0196, para. 22; CAR-OTP-2017-0036 at 0042-0043, paras 33-35; CAR-OTP-2017-0835 at 0837-0838, para. 13; CAR-OTP-2001-0172 at 0180-0182.

¹⁴ CAR-OTP-2001-0742; CAR-OTP-2001-7017 at 7067.

¹⁵ CAR-OTP-2001-5739 at 5759; CAR-OTP-2034-0270 at 0271-0272, paras 8-12; CAR-OTP-2017-0835 at 0838, paras 14-15; CAR-OTP-2018-0530 at 0534-0535, paras 26-29; CAR-OTP-2001-2890 at 2898-2899; CAR-OTP-2001-0172 at 0176, para. 9.

¹⁶ CAR-OTP-2017-0835 at 0838, para. 14; CAR-OTP-2069-0398 at 0402, para. 24; CAR-OTP-2034-0270 at 0271-0272, paras 12-13; CAR-OTP-2001-2890 at 2899.

¹⁷ By 10 July 2014, the Seleka split in various ex-Seleka groups; CAR-OTP-2027-1631 at 1645; CAR-OTP-2091-0480; CAR-OTP-2001-5055.

¹⁸ CAR-OTP-2019-3348 at 3380, para. 251, at 3405, para. 482; CAR-OTP-2001-1102 at 1103, para. 5.

¹⁹ CAR-OTP-2001-7017 at 7068-7085; CAR-OTP-2001-2769 at 2782; CAR-OTP-2001-1102 at 1103, para. 5; CAR-OTP-2001-0172 at 0183-0187; CAR-OTP-2034-0226 at 0230-0262.

²⁰ CAR-OTP-2074-2021 at 2052-2059; CAR-OTP-2001-5739 at 5782; CAR-OTP-2001-7017 at 7086-7087, paras 281-285; CAR-OTP-2061-1534 at 1540, paras 32-36, at 1546-1547, paras 84-87; CAR-OTP-2027-2290 at 2292-2295, paras 15-35; CAR-OTP-2001-0835 at 0875, para. 2.

²¹ CAR-OTP-2031-0241 at 2846-0248, paras 28-39; CAR-OTP-2046-0603 at 0608-0609, paras 31-34; CAR-OTP-2072-1849 at 1850-1860; CAR-OTP-2041-0802; CAR-OTP-2041-0783.

²² “Anti-Balaka” stands for “anti-machete” in the Sango language or “anti-bal-AK47”, meaning against the bullets of an AK-47; see CAR-OTP-2001-2769 at 2825; CAR-OTP-2031-0241 at 0244, para. 22.

oust the Seleka from the CAR;²³ and (ii) target the Muslim population in western CAR in retribution for the crimes and the abuses committed by the Seleka.²⁴ Based on their religious or ethnic affiliation, Muslims were perceived as collectively responsible for, complicit with or supportive of the Seleka.²⁵ From early 2013 onwards, anti-Muslim sentiments and inflammatory rhetoric were openly expressed, also through the means of television and radio, inciting hatred and violence against Muslim civilian communities and other perceived supporters of the Seleka.²⁶

7. By September 2013, Anti-Balaka groups were engaged in hostilities against the Seleka in western CAR, starting in Bossangoa, spreading east to Bouca and then south to Bossemptélé, Bossembélé and Boali.²⁷ Even though the Seleka movement was officially disbanded by Michel Djotodia by presidential decree on 12 September 2013, it continued to exist and to engage in hostilities with the Anti-Balaka.²⁸ Hostilities culminated in an attack on Bangui on 5 December 2013 (the “5 December 2013 Bangui Attack”).²⁹ Various Anti-Balaka groups, comprising about 1,000 armed men, joined efforts and attacked Bangui from different directions, using heavy weapons, assault rifles and machetes.³⁰ On the same day, Anti-Balaka elements attacked Bossangoa.³¹ The 5 December 2013 Bangui Attack was not immediately successful³² and sparked a cycle of violent reprisals by the Seleka and Anti-Balaka in various neighbourhoods in Bangui and throughout western CAR against civilians perceived as

²³ CAR-OTP-2061-1534 at 1540, para. 35, at 1546-1547, paras 84-87; CAR-OTP-2046-0603 at 0608, para. 31; CAR-OTP-2062-0039 at 0043, para. 28; CAR-OTP-2074-2021 at 2058-2059; CAR-OTP-2001-7017 at 7086, para. 282; CAR-OTP-2080-1678 at 1699-1799, lines 699-747.

²⁴ CAR-OTP-2088-1179 at 1181, 1194; CAR-OTP-2089-0056; *see also* CAR-OTP-2080-1678 at 1707, lines 985-1012.

²⁵ CAR-OTP-2031-0241 at 0252, para. 64; CAR-OTP-2081-0496 at 0536-0537; CAR-OTP-2001-0409 at 0410, para. 6.

²⁶ CAR-OTP-2001-7017 at 7065; CAR-OTP-2001-0409 at 0410, para. 8; CAR-OTP-2061-1534 at 1573; CAR-OTP-2089-0056 at 0057; CAR-OTP-2088-2034 [00:00:00 to 00:02:11]; CAR-OTP-0249-1679 [00:03:50 to 00:04:53]; CAR-OTP-2065-5468 [00:02:08 to 00:03:36]; CAR-OTP-2066-5312 [00:00:45 to 00:00:54]; CAR-OTP-2001-2769 at 2791.

²⁷ CAR-OTP-2046-0603 at 0608-0609, paras 34-35; CAR-OTP-2001-0835 at 0875, para. 1; CAR-OTP-2001-7017 at 7035, para. 46; CAR-OTP-2031-0241 at 0250.

²⁸ CAR-OTP-2001-0391 at 0394, para. 7; CAR-OTP-2001-2123 at 2125.

²⁹ CAR-OTP-2001-0409 at 0409, para. 3; CAR-OTP-2001-0391 at 0394, para. 12.

³⁰ CAR-OTP-2001-2769 at 2799; CAR-OTP-2001-0409 at 0409, para. 3; CAR-OTP-2001-2769 at 2776; CAR-OTP-2061-1534 at 1562, paras 180-181, at 1564, paras 189-191; CAR-OTP-2027-1631 at 1648; CAR-OTP-2027-2290 at 2297.

³¹ CAR-OTP-2031-0241 at 0251-0252; CAR-OTP-2001-5739 at 5788.

³² CAR-OTP-2001-2769 at 2802; CAR-OTP-2001-5739 at 5788.

supporting the other side.³³ An estimated 1,000 persons were killed in Bangui alone in the day following the 5 December 2013 Bangui Attack.³⁴ Eventually, on 10 January 2014, Michel Djotodia resigned and the Seleka forces retreated to the north and east of the CAR.³⁵ A transitional government under interim President Catherine Samba-Panza took office.³⁶

8. With a view to engaging with the transitional government, the existing *de facto* Anti-Balaka structure was formalised as of January 2014.³⁷ Its formal structure came to comprise, *inter alia*, the positions of a National General Coordinator (Patrice-Edouard Ngaïssona), a Deputy National Coordinator (Sébastien Wenezoui), a National Coordinator of Operations (Maxime Mokom Gawaka), a Chief of Staff (Gilbert Kamezoulaye), a Spokesperson and a Secretary (Alfred Ngaya).³⁸ ID Cards were issued by the National Coordination to some Anti-Balaka members (sometimes signed by Patrice-Edouard Ngaïssona) in order to distinguish them from so-called “fake” members.³⁹ Commanders of Anti-Balaka groups were formally appointed as Zone-Commanders (“ComZones”), including through appointment orders.⁴⁰ The ComZones controlled specific areas and commanded, disciplined and, as the case may be, punished their respective groups.⁴¹ By February 2014, the Anti-Balaka comprised at least 50,000 elements, of which around 40,000 deployed in the western provinces, led by over 80 ComZones, and 10,000 in eight neighbourhoods and municipalities

³³ CAR-OTP-2001-2769 at 2800-2801; CAR-OTP-2001-0409 at 0409-0410, paras 3 and 7; CAR-OTP-2001-0329 at 0329, paras 2-3; CAR-OTP-2001-0310 at 0310-0312.

³⁴ CAR-OTP-2001-0310 at 0310; CAR-OTP-2001-2769 at 2800.

³⁵ CAR-OTP-2001-4199; CAR-OTP-2001-0409 at 0410-0411, paras 8-9; CAR-OTP-2001-5739 at 5789.

³⁶ CAR-OTP-2025-0372 at 0374; CAR-OTP-2001-0835 at 0866, para. 17.

³⁷ CAR-OTP-2001-3372.

³⁸ CAR-OTP-2001-5739 at 5785; CAR-OTP-2027-2290 at 2299, paras 54-55; CAR-OTP-2025-0380 at 0382, 0384, 0385.

³⁹ The ID Cards contained an identification number, picture, name, function in the Anti-Balaka and location. The ID Cards were also issued with a view to allowing Anti-Balaka members to participate in the disarmament, demobilization and reintegration process. By July 2014, the National Coordination had issued about 10,000 ID Cards; CAR-OTP-2027-2290 at 2302, paras 72-74; CAR-OTP-2072-1913 at 1922-1923; CAR-OTP-2030-0230; CAR-OTP-2025-0324 at 0341-0342, paras 113-117.

⁴⁰ CAR-OTP-2072-1739 at 1760, lines 721-726, at 1764-1766; CAR-OTP-2025-0372 at 0376-0377; CAR-OTP-2072-1881 at 1907.

⁴¹ CAR-OTP-2025-0372 at 0376-0377; CAR-OTP-2030-0232; CAR-OTP-2072-1739 at 1760-1762, lines 724-789; CAR-OTP-2058-0200 at 0205-0206, paras 27-32; CAR-OTP-2050-0654 at 0664, para. 66; CAR-OTP-2031-0241 at 0247, paras 33-35.

around Bangui, led by approximately 22 ComZones.⁴² The ComZones reported to and received authorisations and orders from the National Coordination, such as launching operations, creating “disturbances”, erecting road-blocks and receiving approval to travel; the latter sent missions to the provinces to monitor the situation.⁴³ Around February 2014, the National Coordination also created a military police unit subordinated to the National Coordinator of Operations, the members of which equally committed a series of crimes.⁴⁴

9. When Seleka forces withdrew from Bangui and western CAR upon Michel Djotodia’s resignation, the Muslim population was left unprotected and exposed to escalating retributive sectarian violence by Anti-Balaka groups. The campaign involved the targeting of the Muslim civilian population and those perceived to have supported the Seleka, throughout Bangui – including Boeing and Bimbo – and across western CAR provinces, including Ouham (Bossangoa), Mambere-Kadei (Berberati, Carnot, Guen, Yaloke), Lobaye (Boda), Ouham-Pende and Ombella-M’Poko (Bossemptélé, Gaga, Boali), and involved crimes, such as attacks against the civilian population, displacement, forcible transfer or deportation, summary executions, killings, mutilations, torture and cruel treatment, imprisonment or other forms of severe deprivation of liberty, sexual offences, destruction of Muslim property and religious buildings (mosques),⁴⁵ routine pillaging of Muslim houses and shops and persecution.⁴⁶

10. By February 2014, nearly all Muslim neighbourhoods in Bangui, with the exception of the PK 5 enclave to which Anti-Balaka laid siege, had been cleared of their inhabitants. By March 2014, Bangui’s original Muslim resident population of around 130,000 had been drastically reduced to only around 900 and most of western

⁴² CAR-OTP-2025-0372 at 0375-0377; CAR-OTP-2030-0232; CAR-OTP-2030-0445; CAR-OTP-2046-0603 at 0619, para. 97; CAR-OTP-2025-0324 at 0338, para. 96.

⁴³ CAR-OTP-2025-0324 at 0338, para. 93; CAR-OTP-2072-1739 at 1756-1757; CAR-OTP-2072-1913 at 1919-1922, lines 192-306; CAR-OTP-2031-0241 at 0258, para. 99; CAR-OTP-2048-0171 at 0183, paras 70-74; CAR-OTP-2046-0603 at 0618, para. 89; CAR-OTP-2025-0356.

⁴⁴ CAR-OTP-2025-0324 at 0338, para. 95; CAR-OTP-2046-0603 at 0617, para. 85; CAR-OTP-2059-1586 at 1599-1601; CAR-OTP-2059-1602 at 1605, lines 79-111.

⁴⁵ By June 2014, only 4 out of 23 mosques stood in Bangui. Mosques were also destroyed in the CAR western prefectures Ouham, Ombella M’Poko, Mambere-Kadei and Ouaka; CAR-OTP-2001-2769 at 2813; CAR-OTP-2067-1476 at 1492; CAR-OTP-2055-1987 at 2142, 2177.

⁴⁶ CAR-OTP-2001-2769 at 2789-2793, 2811 and 2813; CAR-OTP-2001-7017 at 7088-7108; CAR-OTP-2001-2043 at 2055-2056; CAR-OTP-2080-0884 at 0896, paras 66-68; CAR-OTP-2055-1987 at 2136-2142; *see also infra*.

CAR's Muslim population had sought refuge in the neighbouring Republic of Chad ("Chad") and Cameroon or to the north-eastern part of CAR.⁴⁷ By August 2014, some 70,000 Muslim refugees had been received in Chad and over 120,000 in Cameroon.⁴⁸ Some 20,000 displaced Muslims were confined in 9 major enclaves in western and central CAR.⁴⁹

11. The hostilities between the two sides did not subside throughout 2014 and continue to this day, despite several efforts to bring about the cessation of hostilities. On 23 July 2014, senior Seleka commanders and the Anti-Balaka leadership signed the 2014 peace agreement at Brazzaville, Republic of the Congo ("Brazzaville Summit") which was breached shortly thereafter.⁵⁰ Between December 2014 and April 2015, further peace discussions between the armed groups involved in the conflict were held in Nairobi, Republic of Kenya.⁵¹

12. **Beina's Anti-Balaka Group.** When attacking Guen, Beina, together with his deputies Mathurin Kombo,⁵² "Armand"⁵³ (also referred to as "Armand Guido"⁵⁴ or "Armand Sakpem"⁵⁵) and "Gyve",⁵⁶ commanded⁵⁷ an Anti-Balaka group consisting

⁴⁷ CAR-OTP-2001-0409 at 0411, para. 11; CAR-OTP-2001-4429 at 4429; CAR-OTP-2083-0437 at 0474; CAR-OTP-2083-0429; CAR-OTP-2010-0028 at 0029.

⁴⁸ Some were transported in humanitarian convoys accompanied by United Nations agencies, the *Mission internationale de soutien à la Centrafrique sous conduit africaine* ("MISCA"), Sangaris, Chadian or other forces, CAR-OTP-2001-7145 at 7167; CAR-OTP-2008-0044; CAR-OTP-2083-0429 at 0429.

⁴⁹ CAR-OTP-2083-0433 at 0434; CAR-OTP-2001-1057 at 1057, para. 3.

⁵⁰ CAR-OTP-2001-1057 at 1063; CAR-OTP-2001-3405; CAR-OTP-2074-2401 at 2402-2403.

⁵¹ CAR-OTP-2008-0606; CAR-OTP-2006-1453.

⁵² CAR-OTP-2092-0028 at 0038, para. 46; CAR-OTP-2091-0568 at 0591, lines 822-823; CAR-OTP-2057-0892 at 0896, para. 24; CAR-OTP-2082-0209 at 0221, lines 414-419.

⁵³ CAR-OTP-2092-0028 at 0038, para. 46; CAR-OTP-2057-0892 at 0896, para. 24; CAR-OTP-2082-0209 at 0221, lines 414-419.

⁵⁴ CAR-OTP-2091-0889 at 0896, lines 237-239.

⁵⁵ CAR-OTP-2092-0028 at 0029, para. 5.

⁵⁶ CAR-OTP-2091-0568 at 0591-0592, lines 813-831; CAR-OTP-0291-0638 at 0639, lines 32-37; CAR-OTP-2092-0028 at 0038, paras 46-47.

⁵⁷ CAR-OTP-2078-0434 at 0458, para. 143, at 0465, para. 188; CAR-OTP-2018-0736 at 0743, para. 45, at 0744, para. 50; CAR-OTP-2022-0031 at 0039, para. 52; CAR-OTP-2061-0003 at 0009, para. 45, at 0016, para. 94; CAR-OTP-2018-0761 at 0767, para. 33; CAR-OTP-2077-0868 at 0879, para. 56; CAR-OTP-2082-0015 at 0017, lines 74-75; CAR-OTP-2082-0135 at 0145, lines 343-345; CAR-OTP-2091-0568 at 0591, lines 811-827, at 0592, lines 850-864; CAR-OTP-2092-0028 at 0029, para. 5, at 0038, para. 46, at 0054, para. 113. The Chamber notes evidence according to which Beina is referred to as the deputy of Mathurin Kombo, *see* CAR-OTP-2018-0736 at 0749, para. 91; CAR-OTP-2001-2299 at 2301-2302.

of around 100-400 men⁵⁸ armed with Kalashnikov rifles, pistols, machetes, arrows and other weapons.⁵⁹ As the *chef de mission*, Beina exerted control over his Anti-Balaka group at least from 1 February to early April 2014,⁶⁰ exercising the power to deploy fighters, issue operational orders and other instructions,⁶¹ discipline his subordinates, including his deputy Mathurin Kombo.⁶² His deputies and other group leaders reported to him regarding their activities in relation to the group's engagement.⁶³ He provided his subordinates with the means to commit the crimes, including traditional "vaccinations" which would allegedly "protect" them in combat.⁶⁴ Beina, together with his deputies, implemented the Anti-Balaka policy which entailed the targeting of the Muslim population in western CAR which, based on their religious or ethnic affiliation, were perceived as collectively responsible for, complicit with or supportive of the Seleka.⁶⁵ More specifically, at the inception of the attack against Guen on 1 February 2014, members of Beina's group overtly proclaimed their intention to target Muslims and their properties:⁶⁶ using the Sango language, they shouted, amongst other things, "*Where are the Muslims? You have to be removed*",⁶⁷ or "*It has stopped raining! Now, come outside, Muslims, we are going to play*".⁶⁸

⁵⁸ CAR-OTP-2018-0736 at 0740, para. 27; CAR-OTP-2078-0434 at 0439, para. 29; CAR-OTP-2091-0638, at 0643-0644, lines 175-183, at 0645, line 254; CAR-OTP-2057-0892 at 896, para. 23; CAR-OTP-2092-0028 at 0036, para. 38; CAR-OTP-2077-0868 at 0871, para. 18.

⁵⁹ CAR-OTP-2018-0761 at 0764, para. 18; CAR-OTP-2022-0031 at 0035, para. 27; CAR-OTP-2057-0892 at 0896, para. 23.

⁶⁰ CAR-OTP-2091-0568 at 0591, lines 818-820; CAR-OTP-2092-0028 at 0038, para. 48.

⁶¹ CAR-OTP-2078-0434 at 0458, para. 143, at 0461-0462, paras 163-164; CAR-OTP-2018-0761 at 0767, para. 36; CAR-OTP-2018-0736 at 0744, para. 47; CAR-OTP-2022-0031 at 0039, para. 47; CAR-OTP-2092-0028 at 0052, para. 102; CAR-OTP-2082-0223 at 0233, lines 330-333, at 0249, lines 926-928.

⁶² CAR-OTP-2078-0434 at 0458, para. 143, at 0468, para. 203.

⁶³ CAR-OTP-2078-0434 at 0467, para. 201, at 0471, para. 165; CAR-OTP-2092-0028 at 0052, para. 102.

⁶⁴ CAR-OTP-2091-0920 at 0924, lines 130-150; CAR-OTP-2082-0075 at 0091, lines 580-583.

⁶⁵ CAR-OTP-2091-0568 at 0582, lines 488-491, at 0601-0602, lines 1166-1186; CAR-OTP-2078-0434 at 0439, para. 28; CAR-OTP-2018-0761 at 0765, para. 22; CAR-OTP-2092-0028 at 0029, para. 6, at 0039, para. 50; CAR-OTP-2057-0892 at 0897, para. 26, at 0898, para. 34.

⁶⁶ CAR-OTP-2077-0868 at 0875, para. 37, at 0879-0880, para. 60; CAR-OTP-2018-0761 at 0767, paras 32 and 34, at 0768, para. 43; CAR-OTP-2018-0736 at 0740, para. 24, at 0743, para. 40; CAR-OTP-2022-0031 at 0035, para. 23, at 0048, para. 106; CAR-OTP-2078-0434 at 0450, para. 88; CAR-OTP-2082-0223 at 0233, lines 330-333.

⁶⁷ CAR-OTP-2018-0736 at 0740, para. 24; *similarly*, CAR-OTP-2077-0868 at 0875, para. 37.

⁶⁸ CAR-OTP-2022-0031 at 0035, para. 25; *similarly*, CAR-OTP-2091-0568 at 0582, lines 474-476.

13. In the light of the foregoing, the Chamber finds reasonable grounds to believe⁶⁹ that an armed conflict not of an international character was ongoing on the territory of the CAR since at least September 2013 until at least December 2014 between the Seleka and the Anti-Balaka, including the group subordinate to Beina.⁷⁰ The Chamber finds that there are reasonable grounds to believe that the Seleka and the Anti-Balaka, including the group subordinate to Beina, qualify as armed groups within the meaning of article 8(2)(f) of the Statute, since, as the case may be, (i) they exhibit a sufficient degree of organisation, with commanders controlling militants within their respective bases, (ii) orders were circulated down the chain of command and were obeyed by subordinates, and (iii) they possessed military equipment, including firearms and heavy weapons, and had the ability to plan military operations and put them into effect. Further, the evidence shows that the violence among the above-mentioned armed groups rose well above the level of isolated and sporadic acts of violence and that it was protracted, with the parties to the conflict employing attacks over a long period of time and at least in 5 western CAR Prefectures. Notably, the conflict has also attracted the attention of the United Nations Security Council in 2013-2014, triggered foreign military interventions,⁷¹ and was marked by ceasefire agreements between the Seleka and its opponents, including the Anti-Balaka, which were not respected.

14. Moreover, the Chamber also finds reasonable grounds to believe that, from at least September 2013 until at least December 2014, an attack was conducted by the Anti-Balaka, including the group subordinate to Beina, against the Muslim civilian population and those perceived as collectively responsible for, complicit with or supportive of the Seleka, pursuant to or in furtherance of an organisational policy to target primarily the Muslim population in Bangui and at least 5 western CAR

⁶⁹ See Pre-Trial Chamber III, *The Prosecutor v Jean-Pierre Bemba Gombo*, Decision on the Prosecutor's Application for a Warrant of Arrest against Jean-Pierre Bemba Gombo, 10 June 2008, ICC-01/05-01/08-14-tENG, para. 24.

⁷⁰ See Trial Chamber I, *Prosecutor v Thomas Lubanga Dyilo*, Judgment pursuant to Article 74 of the Statute, 14 March 2012, ICC-01/04-01/06-2842, paras 531-542; Trial Chamber II, *Prosecutor v Germain Katanga*, Judgment pursuant to article 74 of the Statute ("Katanga Judgment"), 7 March 2014, ICC-01/04-01/07-3436-tENG, paras 1172-1187.

⁷¹ S/RES/2088 (2013) (CAR-OTP-2001-0294); SC/RES/2121 (2013) (CAR-OTP-2001-0256); S/RES/2127 (2013) (CAR-OTP-2001-0275); S/RES/2134 (2013) (CAR-OTP-2051-0665); S/RES/2149 (2013) (CAR-OTP-2001-1043); S/RES/2181 (2013) (CAR-OTP-2091-0488).

Prefectures in retribution for Seleka crimes (article 7(2)(a) of the Statute).⁷² The Anti-Balaka attack across western CAR targeted a large number of victims of the Muslim communities following a consistent pattern of violence, including forcible displacement, killings, torture, forms of deprivation of physical liberty, enforced disappearance, looting of Muslim homes and businesses and destruction of mosques and Muslim homes and was therefore both widespread and systematic⁷³ (article 7(1) of the Statute).

15. The Chamber is satisfied that the supporting evidence, which includes ICC and non-ICC statements, public reports emanating from the United Nations (“UN”) and its agencies and from non-governmental organisations (“NGO”), and news reports, is sufficient to establish reasonable grounds to believe that a non-international armed conflict existed and a widespread and systematic attack against the civilian population occurred.

16. **The Crimes.** Beina, as a commander of a group of around 100-400 members, while following the Anti-Muslim policy of other Anti-Balaka leaders, is believed to have committed or have ordered or encouraged the following crimes:

- a. On or about 1 February 2014, Beina and his group attacked Guen and within hours, facing no military resistance,⁷⁴ encircled the village and took control over it,⁷⁵ killing at least 22 Muslim civilians, including elderly and children,⁷⁶ and wounding several others with machetes.⁷⁷ During the time Beina’s group was in control of Guen until early April 2014,⁷⁸ hundreds of Muslim civilians were forced to flee from Guen⁷⁹

⁷² See Katanga Judgment, paras 1094-1122.

⁷³ See Katanga Judgment, para. 1123.

⁷⁴ CAR-OTP-2091-0608 at 0627, lines 677-689; CAR-OTP-2092-0028 at 0042, para. 64, at 0053, para. 109; CAR-OTP-2082-0223 at 0240, lines 607-610; CAR-OTP-2022-0031 at 0033, para. 14.

⁷⁵ CAR-OTP-2018-0761 at 0766, para. 27; CAR-OTP-2022-0031 at 0035-0036, paras 25-28; CAR-OTP-2078-0434 at 0439-0440, para. 30; CAR-OTP-2057-0892 at 0895, para 19, at 0896, para. 24; CAR-OTP-2078-0434 at 0439, para. 30; CAR-OTP-2091-0568 at 0583-0585, lines 509-591; CAR-OTP-2092-0028 at 0036, para. 38, at 0037, para. 39; CAR-OTP-2082-0047 at 0051-0052, lines 118-175.

⁷⁶ CAR-OTP-2018-0761 at 0766, paras 27, 30; CAR-OTP-2018-0736 at 0742, para. 38; CAR-OTP-2022-0031 at 0037, para. 39; CAR-OTP-2077-0868 at 0873, paras 27-30; CAR-OTP-2078-0434 at 0444, paras 52-53; CAR-OTP-2057-0892 at 0896, para. 24; CAR-OTP-2092-0028 at 0029, para. 5, at 0039, para. 50; CAR-OTP-2082-0015 at 0017, lines 74-76.

⁷⁷ CAR-OTP-2018-0761 at 0766, para. 27; CAR-OTP-2057-0892 at 0896, para. 24; CAR-OTP-2077-0868 at 0872, para. 20, at 0873, para. 30.

⁷⁸ CAR-OTP-2057-0892 at 0908, para 71; CAR-OTP-2082-0190 at 0193, line 85.

due to the violence, and they took refuge in other locations within the CAR or Cameroon.⁸⁰ Some eventually returned taking shelter in places they considered safe, rather than their former homes.⁸¹

In the light of the foregoing, the Chamber finds reasonable grounds to believe that the acts described above amount to crimes against humanity, committed as part of a widespread and systematic attack against the civilian population, namely murder and attempted murder (articles 7(1)(a) and 25(3)(f) of the Statute), extermination (article 7(1)(b) of the Statute), deportation or forcible transfer of population (article 7(1)(d) of the Statute),⁸² and persecution (article 7(1)(h) of the Statute);⁸³ and war crimes, committed in the context of and associated with an armed conflict not of an international character, namely murder and attempted murder (articles 8(2)(c)(i) and 25(3)(f) of the Statute), intentionally directing an attack against the civilian population (article 8(2)(e)(i) of the Statute)⁸⁴ and displacement (article 8(2)(e)(viii) of the Statute).

The Chamber is satisfied that the supporting evidence, mainly ICC statements, is sufficient to establish reasonable grounds to believe that the abovementioned crimes were committed.

⁷⁹ CAR-OTP-2077-0868 at 0880, para. 64; CAR-OTP-2078-0434 at 0458, para. 140.

⁸⁰ CAR-OTP-2057-0892 at 0907, para. 70; CAR-OTP-2082-0047 at 0052, lines 169-175; CAR-OTP-2022-0031 at 0036, paras 28-30; CAR-OTP-2061-0003 at 0008, para. 32, at 0009, para. 42; CAR-OTP-2019-1340 at 1345; CAR-OTP-2017-0015 at 0122; CAR-OTP-2018-0761 at 0770-0771, para. 57; CAR-OTP-2018-0736 at 0746, para. 63; CAR-OTP-2091-0820 at 0824, lines 114-143.

⁸¹ CAR-OTP-2017-0015 at 0122; CAR-OTP-2061-0003 at 0011, para. 56; CAR-OTP-2092-0028 at 0040, para. 54; CAR-OTP-2018-0736 at 0742, para. 36; CAR-OTP-2077-0868 at 0872, paras 22-23; CAR-OTP-2078-0434 at 0445, para. 61.

⁸² See Pre-Trial Chamber I, *Request under Regulation 46(3) of the Regulations of the Court*, Decision on the "Prosecution's Request for a Ruling on Jurisdiction under Article 19(3) of the Statute", 6 September 2018, ICC-RoC46(3)-01/18-37, paras 52-61; Pre-Trial Chamber II, *Prosecutor v William Samoei Ruto et al*, Decision on the Confirmation of Charges Pursuant to Article 61(7)(a) and (b) of the Rome Statute, 23 January 2012, ICC-01/09-01/11-373, para. 244-245.

⁸³ See Pre-Trial Chamber III, *Situation in the Republic of Burundi*, Decision Pursuant to Article 15 of the Rome Statute on the Authorization of an Investigation into the Situation in the Republic of Burundi ("Burundi Decision"), 9 November 2017, ICC-01/17-9-Red, paras 130-133.

⁸⁴ See Pre-Trial Chamber II, *Prosecutor v Bosco Ntaganda*, Decision Pursuant to Article 61(7)(a) and (b) of the Rome Statute on the Charges of the Prosecutor Against Bosco Ntaganda, 9 June 2014, ICC-01/04-02/06-309, paras 45-47; Katanga Judgment, paras 800-803.

- b. On 2 February 2014, Beina ordered Guen's remaining Muslim civilians to gather in the compound of Ali Garba, a Muslim community leader, which by 3 February 2014 hosted around 300 displaced people, including elderly, women and children.⁸⁵ On 5 February 2014, at around 08:00 Beina and his group surrounded and stormed the compound⁸⁶ and Beina ordered his men to search the premises, which they ransacked.⁸⁷ Beina separated the civilians into groups⁸⁸ and, at gunpoint, ordered the men and boys to lie down.⁸⁹ Then, Beina summarily executed several Muslim men and boys with his Kalashnikov rifle, emptying one magazine and another, provided by Mathurin Kombo.⁹⁰ Subsequently, Beina ordered his men to finish off any survivors.⁹¹ Two boys, aged 8 and 13-15 years respectively, survived with serious gunshots and machete wounds.⁹² In total, at least 42 Muslim men and boys, including at least 2 children aged about 12 years, were killed that day.⁹³ Following the killings, a number of Muslim civilians present at the compound, fearing for their safety,

⁸⁵ CAR-OTP-2018-0761 at 0766, para. 30; CAR-OTP-2091-0502 at 0509, lines 277-283; CAR-OTP-2092-0028 at 0039, para. 52, at 0040, para. 55; CAR-OTP-2018-0736 at 0741, para. 31; CAR-OTP-2019-1340 at 1345; CAR-OTP-2057-0892 at 0897, para. 28; CAR-OTP-2078-0434 at 0447, para. 70.

⁸⁶ CAR-OTP-2018-0761 at 0767, para. 35; CAR-OTP-2018-0736 at 0743, para. 41; CAR-OTP-2078-0434 at 0447, para. 70, at 0449, para. 81.

⁸⁷ See below sub-paragraph (e).

⁸⁸ CAR-OTP-2018-0761 at 0767-0768, paras 37-38; CAR-OTP-2018-0736 at 0743-0744, paras 45-47; CAR-OTP-2078-0434 at 0450, paras 86-87, 89.

⁸⁹ CAR-OTP-2018-0736 at 0744, para. 47; CAR-OTP-2018-0761 at 0767-0768, para. 37; CAR-OTP-2078-0434 at 0450, paras 88-89.

⁹⁰ CAR-OTP-2022-0031 at 0039, para. 53; CAR-OTP-2018-0736 at 0744, para. 47.

⁹¹ CAR-OTP-2018-0736 at 0744, para. 47; CAR-OTP-2022-0031 at 0039, para. 53; CAR-OTP-2082-0075 at 0080, lines 154-161.

⁹² CAR-OTP-2018-0736 at 0744, para. 49, at 0749, para. 89; CAR-OTP-2018-0761 at 0771, para. 59; CAR-OTP-2018-0778; CAR-OTP-2078-0434 at 0453, para. 111; CAR-OTP-2061-0003 at 0010, para. 49; CAR-OTP-2022-0031 at 0052, para. 127.

⁹³ CAR-OTP-2018-0736 at 0743, para. 45, at 0744, para. 48; CAR-OTP-2018-0761 at 0768, para. 38; CAR-OTP-2092-0028 at 0029, para. 8, at 0041, paras 57 and 59; CAR-OTP-2077-0868 at 0874, paras 32-33; CAR-OTP-2078-0434 at 0450, para. 90; CAR-OTP-2061-0003 at 0010, para. 49; CAR-OTP-2022-0031 at 0040, paras 59-60; CAR-OTP-2091-0502 at 0510, lines 335-346; CAR-OTP-2057-0892 at 0898, paras 32-34; CAR-OTP-2082-0015 at 0017, lines 76-77; CAR-OTP-2082-0075 at 0079, lines 131-133; CAR-OTP-2001-2299 at 2301-2302; CAR-OTP-2082-0285 at 0288-0289, lines 67-77; CAR-OTP-2019-1337 at 1338; CAR-OTP-2018-0736 at 0748, para. 84.

were forced to flee, some taking refuge in the residence of Madamou Bandjoukou, a Muslim counsellor to the Mayor of Guen.⁹⁴

In the light of the foregoing, the Chamber finds reasonable grounds to believe that the acts described above amount to crimes against humanity, committed as part of a widespread and systematic attack against the civilian population, namely murder and attempted murder (articles 7(1)(a) and 25(3)(f) of the Statute), extermination (article 7(1)(b) of the Statute), deportation or forcible transfer of population (article 7(1)(d) of the Statute), imprisonment or other severe deprivation of physical liberty (article 7(1)(e) of the Statute),⁹⁵ and persecution (article 7(1)(h) of the Statute); and war crimes, committed in the context of and associated with an armed conflict not of an international character, namely murder and attempted murder (articles 8(2)(c)(i) and 25(3)(f) of the Statute) and displacement (article 8(2)(e)(viii) of the Statute).

The Chamber is satisfied that the supporting evidence, which includes ICC witness statements, a photograph and a public NGO report, is sufficient to establish reasonable grounds to believe that the abovementioned crimes were committed.

- c. On or about 6 February 2014, Beina and his fighters transferred at least 163 Muslim civilians from Ali Garba's compound to the Catholic mission in Djomo, a village adjacent to Guen,⁹⁶ and threatened violence against them.⁹⁷ Due to these acts, the Muslim civilians were further forced to flee from Djomo to other locations in CAR or Cameroon.⁹⁸

⁹⁴ CAR-OTP-2061-0003 at 0010, para. 50, at 0011, para. 56; CAR-OTP-2091-0638 at 0652, lines 484-487.

⁹⁵ See Burundi Decision, para. 68.

⁹⁶ CAR-OTP-2091-0638 at 0668-0669, lines 1062-1113; CAR-OTP-2057-0892 at 0899, para. 38; CAR-OTP-2018-0761 at 0770, para. 50; CAR-OTP-2092-0028 at 0042, para. 65; CAR-OTP-2061-0003 at 0011, para. 55; CAR-OTP-2019-1340 at 1342.

⁹⁷ CAR-OTP-2078-0434 at 0457-0458, paras 135 and 138; CAR-OTP-2057-0892 at 0900, paras 41-42; CAR-OTP-2019-1340 at 1342.

⁹⁸ CAR-OTP-2057-0892 at 0902, para. 50, at 0907, para. 69; CAR-OTP-2019-1340 at 1350.

In the light of the foregoing, the Chamber finds reasonable grounds to believe that the acts described above amount to crimes against humanity, committed as part of a widespread and systematic attack against the civilian population, namely imprisonment or other severe deportation or forcible transfer of population (article 7(1)(d) of the Statute), deprivation of physical liberty (article 7(1)(e) of the Statute) and persecution (article 7(1)(h) of the Statute); and war crimes, committed in the context of and associated with an armed conflict not of an international character, namely displacement (article 8(2)(e)(viii) of the Statute).

The Chamber is satisfied that the supporting evidence, which includes ICC witness statements and a public NGO report, is sufficient to establish reasonable grounds to believe that the abovementioned crimes were committed.

- d. On or about 8 February 2014, Madamou Bandjoukou, a Muslim counsellor to the Mayor of Guen, was killed by an Anti-Balaka fighter,⁹⁹ and over 20 Muslim civilians, including widowed women, who had taken refuge in his house, were transferred by Beina's group to the Sodiam compound where Anti-Balaka fighters detained¹⁰⁰ and threatened them with violence.¹⁰¹ Beina's fighters also raped or attempted to rape at least two women.¹⁰²

In the light of the foregoing, the Chamber finds reasonable grounds to believe that the acts described above amount to crimes against humanity, committed as part of a widespread and systematic attack against the civilian population, namely imprisonment or other severe deprivation of physical liberty (article 7(1)(e) of the Statute), rape and attempted rape (articles 7(1)(g) and 25(3)(f) of the Statute) and

⁹⁹ CAR-OTP-2057-0892 at 0901, para. 46; CAR-OTP-2061-0003 at 0011, para. 56; CAR-OTP-2077-0868 at 0876, para. 40.

¹⁰⁰ CAR-OTP-2061-0003 at 0011, para. 57, at 0012-0014, paras 59-73 and 77; CAR-OTP-2077-0868 at 0876, paras 43 and 45; CAR-OTP-2078-0434 at 0461, paras 158-159; CAR-OTP-2082-0190 at 0196-0197, lines 195-234.

¹⁰¹ CAR-OTP-2077-0868 at 0877, paras 47-48.

¹⁰² CAR-OTP-2061-0003 at 0014-0016, paras 77-89; CAR-OTP-2077-0868 at 0877, para. 47.

persecution (article 7(1)(h) of the Statute); and war crimes, committed in the context of and associated with an armed conflict not of an international character, namely rape and attempted rape (articles 8(2)(e)(vi) and 25(3)(f) of the Statute).

The Chamber is satisfied that the supporting evidence, mainly ICC witness statements, is sufficient to establish reasonable grounds to believe that the abovementioned crimes were committed.

- e. Upon their arrival in Guen on 1 February 2014,¹⁰³ and for the duration of the three-month occupation of the village until early April 2014, Beina, Mathurin Kombo and his Anti-Balaka subordinates destroyed Muslim properties and looted Muslim shops and houses, including that of Ali Garba.¹⁰⁴ Upon Beina's instruction, the corrugated iron sheets were removed from the houses by Anti-Balaka fighters, including that of the community leader Ali Garba.¹⁰⁵ Beina and Mathurin Kombo personally stole motorcycles, cars, cattle and other property¹⁰⁶ and Beina ordered his subordinates to loot for his own benefit.¹⁰⁷ Beina, or others for him, transported stolen goods out of Guen by car.¹⁰⁸ The destruction was extensive and, eventually, almost all Muslim houses

¹⁰³ CAR-OTP-2092-0028 at 0029, para. 5.

¹⁰⁴ CAR-OTP-2018-0736 at 0740, para. 22, at 0743, paras 40-41; CAR-OTP-2018-0761 at 0764, para. 19, at 0767, paras 35-36; CAR-OTP-2077-0868 at 0873, para. 26; CAR-OTP-2091-0568 at 0584-0585, lines 577-583; CAR-OTP-2091-0852 at 0859-0860, lines 252-259; CAR-OTP-2092-0028 at 0029, para. 5, at 0037, para. 44, at 0047, para. 84, at 0049, para. 96; CAR-OTP-2082-0121 at 0126, lines 165-177; CAR-OTP-2019-1340 at 1345; CAR-OTP-2022-0031 at 0036, para. 32; CAR-OTP-2078-0434 at 0443, para. 48, at 0447, para. 71, at 0461, paras 162-163; CAR-OTP-2061-0003 at 0008, para. 33, at 0009, paras 39 and 41, at 0017, para. 98; CAR-OTP-2057-0892 at 0899, para. 37, at 0908, para. 71; CAR-OTP-2018-0752 at 0752.

¹⁰⁵ CAR-OTP-2082-0223 at 0233, lines 330-342; CAR-OTP-2091-0673 at 0684-0686, lines 387-449; CAR-OTP-2091-0692 at 0693-0694, lines 25-53; CAR-OTP-2078-0434 at 0447, para. 72.

¹⁰⁶ CAR-OTP-2092-0028 at 0037, para. 44; CAR-OTP-2018-0736 at 0741, para. 30, at 0749, para. 91; CAR-OTP-2082-0223 at 0229, lines 201-203, at 0234, lines 370-379; CAR-OTP-2022-0031 at 0044, para. 81, at 0048, para. 105; CAR-OTP-2092-0028 at 0037-0038, para. 44; CAR-OTP-2078-0434 at 0460, para. 151; CAR-OTP-2082-0190 at 0193, lines 77-79.

¹⁰⁷ CAR-OTP-2061-0003 at 0017, para. 98; CAR-OTP-2078-0434 at 0461, para. 163; CAR-OTP-2082-0223 at 0233, lines 330-333, at 0249, lines 926-932.

¹⁰⁸ CAR-OTP-2022-0031 at 0048, para. 105; CAR-OTP-2078-0434 at 0462, para. 164, at 0469, para. 149; CAR-OTP-2091-0692 at 0722, lines 1050-1065, at 0724, lines 1119-1134; CAR-OTP-2082-0223 at 0234, lines 374-379; CAR-OTP-2057-0892 at 0908, para. 71.

were destroyed in Guen.¹⁰⁹ In the context of looting Guen and other adjacent locations, money and other belongings were forcefully taken from Muslim civilians.¹¹⁰ Beina also extorted money from Muslim civilians (i) before allowing them to leave Guen;¹¹¹ or (ii) in exchange for “protection” against Anti-Balaka fighters and “assistance” in their departure from Guen, including to Mambere from where they could reach Berberati or Kenzo in Cameroon.¹¹²

In the light of the foregoing, the Chamber finds reasonable grounds to believe that the acts described above amount to crimes against humanity, committed as part of a widespread and systematic attack against the civilian population, namely persecution (article 7(1)(h) of the Statute); and war crimes, committed in the context of and associated with an armed conflict not of an international character, namely pillaging (article 8(2)(e)(v) of the Statute) and destruction of the adversary’s property (article 8(2)(e)(xii) of the Statute).¹¹³ The Chamber finds reasonable grounds to believe that the forceful taking of money and other belongings from Muslims in the context of pillaging Guen and adjacent locations amounts to persecution as a crime against humanity (article 7(1)(h) of the Statute) and pillaging as a war crime (article 8(2)(e)(v) of the Statute). Likewise, the Chamber finds reasonable grounds to believe that the extortion of money from Muslim civilians, outside the context of pillaging Guen and adjacent locations, amounts to persecution as a crime against humanity (article 7(1)(h) of the Statute). In contrast, the Chamber finds that the evidence presented

¹⁰⁹ CAR-OTP-2018-0736 at 0740, para. 22; CAR-OTP-2077-0868 at 0873, para. 26; CAR-OTP-2201-2299 at 2301; CAR-OTP-2082-0121 at 0126, lines 165-177.

¹¹⁰ CAR-OTP-2019-1340 at 1345; CAR-OTP-2078-0434 at 0450, paras 87-88; CAR-OTP-2018-0736 at 0742, para. 37; CAR-OTP-2022-0031 at 0043, para. 76; CAR-OTP-2057-0892 at 0902, para. 49; CAR-OTP-2061-0003 at 0016, paras 90 and 96; CAR-OTP-2077-0868 at 0877, para. 46.

¹¹¹ CAR-OTP-2018-0761 at 0770-0771, para. 57; CAR-OTP-2018-0736 at 0746, para. 62; CAR-OTP-2057-0892 at 0901, para. 44; CAR-OTP-2092-0028 at 0044, para. 71.

¹¹² CAR-OTP-2082-0135 at 0138, lines 83-88; CAR-OTP-2018-0736 at 0746, para. 62; CAR-OTP-2018-0761 at 0770, para. 54; CAR-OTP-2078-0434 at 460, paras 151-154, at 0464, paras 178-180 and 184; CAR-OTP-2057-0892 at 0907, para. 69; CAR-OTP-2082-0104 at 0119, lines 511-531; CAR-OTP-2082-0190 at 0196, lines 179-198; CAR-OTP-2061-0003 at 0018, paras 105-109; CAR-OTP-2022-0031 at 0047-0048, paras 100-101; CAR-OTP-2091-0762 at 0784, lines 755-760.

¹¹³ See Katanga Judgment, paras 887-901.

by the Prosecutor at this stage of the proceedings does not clearly establish reasonable grounds to believe that the conduct of extortion outside of the context of pillaging Guen and adjacent locations amounts to pillaging as a war crime (article 8(2)(e)(v) of the Statute).

The Chamber is satisfied that the supporting evidence, which includes ICC witness statements, personal notes and public NGO reports, is sufficient to establish reasonable grounds to believe that the abovementioned crimes were committed.

17. **Beina's Conduct.** Beina committed the above crimes, personally, jointly, and through others, in furtherance of the policy established by the Anti-Balaka leadership, including Patrice-Edouard Ngaïssona and Maxime Mokom Gawaka, to target the Muslim population and others perceived to support the Seleka or to be "foreigners" in Bangui and in western CAR. He deployed his Anti-Balaka group to Guen and adjacent locations and was present at the crime scenes throughout the period from at least 1 February until early April 2014. He personally committed crimes against Guen's Muslim civilian population and led, ordered and encouraged the commission of crimes by his subordinates. Moreover, he did not stop, prevent or punish the criminal conduct of his subordinates, of which he was aware, thus creating an atmosphere of impunity.

18. Taking into account the totality of evidence, the Chamber finds reasonable grounds to believe that, in the first place, Beina committed individually, jointly with or through others or otherwise ordered, solicited, induced and facilitated the commission of the crimes described above (articles 25(3)(a)¹¹⁴, 25(3)(b)¹¹⁵ and 25(3)(c)¹¹⁶ of the Statute). The Chamber is satisfied that Beina acted with the required

¹¹⁴ See Trial Chamber VII, *Prosecutor v Jean-Pierre Bemba Gombo et al*, Judgment pursuant to Article 74 of the Statute ("Bemba et al Judgment"), 19 October 2016, ICC-01/05-01/13-1989-Red, paras 56-58; 64-71; Katanga Judgment, paras 1398-1416; Pre-Trial Chamber II, *Prosecutor v Gemaïn Katanga and Mathieu Ngudjolo Chui*, Decision on the confirmation of charges, 30 September 2008, ICC-01/04-01/07-717, paras 487-539.

¹¹⁵ See Bemba et al Judgment, paras 73-82; Pre-Trial Chamber II, *Prosecutor v. Sylvestre Mudacumura*, Decision on the Prosecutor's Application under Article 58, 13 July 2012, ICC-01/04-01/12-1-Red, para. 63.

¹¹⁶ See Bemba et al Judgment, paras 87-98; Appeals Chamber, *Prosecutor v Jean-Pierre Bemba Gombo et al*, Judgment on the appeals of Mr Jean-Pierre Bemba Gombo, Mr Aimé Kilolo Musamba, Mr Jean-Jacques Mangenda Kabongo, Mr Fidèle Babala Wandu and Mr Narcisse Arido against the

intent and knowledge for the specific crimes set forth in this warrant of arrest. In addition, the Chamber is satisfied that (i) Beina knew that the crimes were or intended the crimes to be part of a widespread and systematic attack against the civilian population,¹¹⁷ and (ii) he was aware of the factual circumstances that established the existence of the non-international armed conflict.¹¹⁸ In the second place, the Chamber is satisfied that Beina, given his effective control over his Anti-Balaka group operating in Guen and adjacent locations, alternatively or cumulatively bears criminal responsibility as a military commander since he knew or, owing to the circumstances at the time, he should have known that the members of his Anti-Balaka group were committing or were about to commit the crimes described above and he failed to take all necessary and reasonable measures to prevent or repress the commission by his subordinates of such crimes (article 28(a) of the Statute¹¹⁹).

19. The Chamber is satisfied that the overall supporting evidence is sufficient to establish reasonable grounds to believe that Beina bears criminal responsibility.

2. Whether the arrest of Beina appears necessary (Article 58(1)(b) of the Statute)

20. The Chamber is satisfied, in conformity with article 58(1)(b) of the Statute, that the arrest of Beina appears necessary to ensure that (i) he appears at trial; (ii) does not obstruct or endanger the Prosecutor's ongoing investigation; and (iii) does not continue with the commission of crimes within the jurisdiction of the Court arising out of the same circumstances. The Chamber takes heed of the fact that nearly 80% of the territory of the CAR is still under the control of armed groups, including the Anti-Balaka,¹²⁰ which would easily enable the suspect to evade justice if he were to remain free. Further, Beina's past leadership position and the fact that Anti-Balaka groups remain operative in the region suggests that there is a risk Beina is still in a position of authority and has means available which could allow him to reach, intimidate, or harm (potential) witnesses, their families or other individuals

decision of Trial Chamber VII entitled "Judgment pursuant to Article 74 of the Statute", 8 March 2018, ICC-01/05-01/13-2275-Red, paras 18-21.

¹¹⁷ See paragraph 2 of the Introduction to Crimes against Humanity (Article 7) in the Elements of Crimes.

¹¹⁸ See paragraph 3 of the Introduction to War Crimes (Article 8) in the Elements of Crimes.

¹¹⁹ See Pre-Trial Chamber II, *Prosecutor v Jean-Pierre Bemba Gombo*, Decision Pursuant to Article 61(7)(a) and (b) of the Rome Statute on the Charges of the Prosecutor Against Jean-Pierre Bemba Gombo, 15 June 2009, ICC-01/05-01/08-424, paras 404-443.

¹²⁰ CAR-OTP-2084-1827 at 1827.

cooperating with the Court. In this context, the Chamber refers to the information that Beina resides in the CAR, as do potential witnesses, which increases his ability to interfere with the ongoing investigation. Lastly, given Beina's authority over his Anti-Balaka group in the past and the fact that the armed conflict has not ceased in the CAR to this day, the Chamber is of the view that Beina's arrest is necessary to prevent him from committing further crimes within the jurisdiction of the Court. In the light of the foregoing, the issuance of a warrant of arrest is deemed necessary.

IV. Classification and Other Requests

21. For the reasons provided in the Application, the Chamber is satisfied that making it public at this stage could prevent or significantly impede the execution of the present warrant of arrest. Therefore, the Chamber accepts the classification proposed by the Prosecutor for the Application and also retains the classification of the present warrant of arrest, as under seal, *ex parte* Prosecutor only, pursuant to regulation 23*bis* of the Regulations of the Court. The Chamber authorises the Prosecutor and the Registry to communicate this warrant of arrest to any State or international organisation, or, as the case may be, to reveal its existence, for the purposes of its execution. However, the Chamber is of the view that once Beina is surrendered to the Court, this warrant of arrest will have to be made public, with the necessary redactions, as the case may be.

22. As regards the Prosecutor's request for search and seizure,¹²¹ the Chamber, based on article 57(3)(a) of the Statute, is satisfied that the measures may assist the Office of the Prosecutor to discharge its investigative duties under article 54(1)(a) of the Statute. Hence, the arresting State, presumably the CAR, is requested, in accordance with article 93(1)(h) of the Statute, to take all necessary measures to search Beina, his home and any premises where he will be arrested or resides during his arrest and to seize any evidence, such as cell phones, computers, diaries, address books, notes, records of meetings, or conversations, weapons and clothes, which are reasonably believed to have been used in, connected with, or provide evidence of the crimes described in the present warrant of arrest. Furthermore, the arresting State is requested, in accordance with article 99(1) of the Statute, to authorise the presence of

¹²¹ ICC-01/14-18-US-Exp, para. 356.

investigators from the ICC during the personal and other searches, and promptly to transmit to the Court any evidence seized on the occasion.

FOR THESE REASONS, THE CHAMBER HEREBY

ISSUES a warrant of arrest for Edmond Beina, also known as “BEINA of Tedoa”, “BEÏNA”, or “BAINA”, a national of the Central African Republic, aged approximately 35-45 years old, reported to be from Tedoa and to reside in Mbaina (Topia municipality), for his alleged criminal responsibility pursuant to articles 25(3)(a), (b) and (c) as well as 28(a) of the Statute, for murder and attempted murder (articles 7(1)(a) and 25(3)(f) of the Statute), extermination (article 7(1)(b) of the Statute), deportation or forcible transfer of population (article 7(1)(d) of the Statute), imprisonment or other severe deprivation of physical liberty (article 7(1)(e) of the Statute), rape and attempted rape (articles 7(1)(g) and 25(3)(f) of the Statute), and persecution (article 7(1)(h) of the Statute) as crimes against humanity; and murder and attempted murder (articles 8(2)(c)(i) and 25(3)(f) of the Statute), intentional attack against the civilian population (article 8(2)(e)(i) of the Statute), pillaging (article 8(2)(e)(v) of the Statute), rape and attempted rape (articles 8(2)(e)(vi) and 25(3)(f) of the Statute), displacement of the civilian population (article 8(2)(e)(viii) of the Statute) and destruction of the adversary’s property (article 8(2)(e)(xii) of the Statute) as war crimes, committed in Guen, a village in Mambere-Kadei Prefecture, between at least 1 February to early April 2014, as set forth in this warrant of arrest;

DECIDES that the warrant of arrest, currently classified under seal, *ex parte* Prosecutor only, may be communicated, or its existence be revealed, to any State or international organisation for the purposes of its execution and the existence of the Prosecutor’s Application may be mentioned;

DECIDES that the warrant of arrest shall be made public, possibly with redactions, if necessary, as soon as the person is surrendered to the seat of the Court;

DECIDES that, as soon as practicable, the Registrar shall: (i) prepare a request for cooperation seeking the arrest and surrender of Beina and containing the information and documents required by articles 89(1) and 91 of the Statute and rule 187 of the Rules of Procedure and Evidence; and (ii) transmit, in consultation and coordination

with the Prosecutor, the request to the relevant national authorities of the Central African Republic or the competent authorities of any other relevant State, or to any other international organisation, in accordance with article 87 of the Statute, to cooperate with the Court for the purpose of executing the request for arrest and surrender of Beina;

DECIDES that, when transmitting the request for arrest and surrender to the relevant national authorities in the Central African Republic or the competent authorities of any other arresting State, the Registrar shall request them, in accordance with articles 93(1) and 99(1) of the Statute, to restrict, as far as possible under their national law, the contacts of Beina while detained on their territory, pending his surrender to the Court;

DIRECTS the Registrar to prepare and transmit to any relevant State, in consultation and coordination with the Prosecutor, any request for transit pursuant to article 89(3) of the Statute or any request for provisional arrest pursuant to article 92 of the Statute which may be necessary for the surrender of Beina to the Court;

ORDERS the Prosecutor to transmit to the Registry all information available to her that may be of assistance in the execution of the request for arrest and surrender as well as any information of relevance to assessing any risks to victims and witnesses associated with the transmission of the request for arrest and surrender;

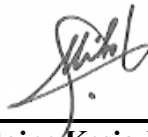
DIRECTS the Registrar to prepare and transmit to the relevant national authorities of the Central African Republic or the competent authorities of any other arresting State a request for cooperation in accordance with articles 93(1)(h) and 99(1) of the Statute for (i) searching Beina, the premises where he is arrested or resides at the time of the arrest, as well as his home; (ii) seizing any evidence, such as cell phones, computers, diaries, address books, notes, records of meetings or conversations, weapons and clothes, which are reasonably believed to have been used in, are connected with, or provide evidence of the crimes described in this warrant of arrest; (iii) permitting investigators of the Office of the Prosecutor to be present during the execution of any such search; and (iv) transmitting such evidence to the Court;

ORDERS the Registrar to prepare, as soon as practicable, a French translation of the present warrant of arrest for the purpose of transmitting it to the relevant national authorities in the Central African Republic;

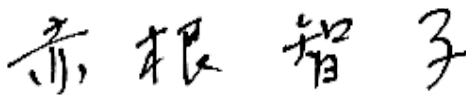
ORDERS the Registrar to register the warrant of arrest in the record of the situation and to open a case record and transfer first the Prosecutor's application (ICC-01/14-18-US-Exp) from the situation record into the case record once the suspect has been arrested and surrendered to the Court;

ORDERS the Prosecutor, within three days of the issuance of the present warrant of arrest, to inform the Chamber whether this warrant may be made public without redactions or, alternatively, which redactions, according to the Prosecutor, should be applied to the warrant in order to make it public at the time the suspect will be eventually surrendered to the Court.

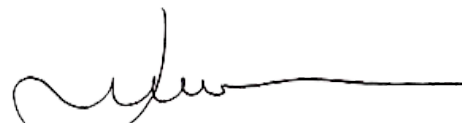
Done in both English and French, the English version being authoritative.



Judge Antoine Kesia-Mbe Mindua,
Presiding Judge



Judge Tomoko Akane



Judge Rosario Salvatore Aitala

Dated this Friday, 7 December 2018

At The Hague, The Netherlands