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**International  
Criminal  
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Date: **26 September 2023**

**PRE-TRIAL CHAMBER II**

**Before:** Judge Rosario Salvatore Aitala, Presiding Judge  
Judge Tomoko Akane  
Judge Sergio Gerardo Ugalde Godínez

**SITUATION IN THE CENTRAL AFRICAN REPUBLIC II**  
**IN THE CASE OF *THE PROSECUTOR v. MAXIME JEOFFROY ELI MOKOM***  
***GAWAKA***

**Public**

**Public redacted version of “Prosecution’s Additional Submissions  
following the Confirmation of Charges Hearing”, ICC-01/14-01/22-269-Conf,  
14 September 2023**

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## I. INTRODUCTION

1. The Prosecution hereby provides its additional submissions on the merits of the case against Mr Mokom, pursuant to the Chamber's directions on the last day of the confirmation of charges hearing ("Confirmation Hearing").<sup>1</sup>
2. The present submissions will expand on the following: (i) Mr Mokom's contribution to the charged crimes; and (ii) Mr Mokom's *mens rea*. The charges are "sufficiently compelling" and go well "beyond mere theory or suspicion,"<sup>2</sup> as there is sufficient evidence to establish substantial grounds to believe that Mr Mokom contributed to the commission of the charged crimes and acted with the required *mens rea*.
3. The Prosecution's evidence includes:
  - detailed evidence of insider witnesses who were with Mr Mokom [REDACTED] for large portions of the charged period (*e.g.*, P-0889 and P-2232);
  - insider witnesses who directly participated in the large-scale attacks on Bossangoa and Bangui and link Mr Mokom in some way to them, whether by preparatory steps (*e.g.*, P-0966, P-1521) or oversight during the attack (*e.g.*, P-0446) and/or support that the Anti-Balaka perpetrators targeted Muslim civilians pursuant to a common purpose (*e.g.*, P-1339, P-2269);
  - witnesses on the ground in Bangui and in frequent touch with Mr Mokom in the relevant period (*e.g.*, P-0884); and

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<sup>1</sup> ICC-01/14-01/22-T-008-CONF-ENG ET ("T-008"), p. 49.

<sup>2</sup> See *the Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaïssona*, Corrected version of "Decision on the Confirmation of Charges Against Alfred Yekatom and Patrice-Edouard Ngaïssona", ICC-01/14-01/18-403-Red-Corr, 14 May 2020, para. 14.

- witnesses who were well-connected with other senior Anti-Balaka and have a good understanding of how information flowed in the Anti-Balaka at the time and who was in charge of relevant functions (*e.g.*, P-1847).
4. The insider evidence in this case is complemented and corroborated by other evidence, including:
- the eyewitness accounts of victims of the charged crimes given by Prosecution witnesses (*e.g.*, P-2462, P-1528, P-0434, P-2657), whose evidence supports the conclusion that the Anti-Balaka who committed the crimes were targeting Muslims and Muslim-owned property; and
  - documentary evidence, such as Mr Mokom's own Facebook communications and call data records, contemporaneous open source reporting, and contemporaneous videos depicting Anti-Balaka expressing anti-Muslim animus.

## II. CONFIDENTIALITY

5. Pursuant to regulation 23(1)*bis* of the Regulations of the Court, this filing is classified as confidential as it relates to confidential items of evidence and information that would impact on witness security. A public redacted version will be filed as soon as practicable.

### III. SUBMISSIONS

#### *a. Overview of the Prosecution Case*

6. The case of the Prosecution is set out in the Document Containing the Charges (“DCC”)<sup>3</sup> and the supplementary documents filed.<sup>4</sup> The Prosecution alleges that the Anti-Balaka shared a common purpose which entailed the violent targeting of the Muslim civilian population in western Central African Republic (“CAR”) who—based on their national, political, religious or ethnic affiliation—were seen as collectively responsible for violent crimes and atrocities allegedly committed by the Seleka before, during, or after the 24 March 2013 coup, or otherwise complicit with or supportive of the Seleka. This common purpose included at least the charged crimes.
7. This allegation meets the requirements for liability under article 25(3)(d) that the charged crimes were committed pursuant to a common purpose.<sup>5</sup> The Prosecution does not suggest that every single Anti-Balaka in CAR shared the common purpose for all charged crimes.<sup>6</sup> Rather, in line with the legal requirements, the Prosecution alleges that the common purpose is shared by those members of the

<sup>3</sup> Annex A to the Prosecution’s Submission of the Document Containing the Charges (“DCC”), ICC-01/14-01/22-174-Conf-AnxA, 9 March 2023, para. 4.

<sup>4</sup> Annex C1 to the Prosecution’s Submission of the Document Containing the Charges (“DCC Annex C.1”), ICC-01/14-01/22-174-Conf-AnxC1, 9 March 2023; Annex C2 to the Prosecution’s Submission of the Document Containing the Charges (“DCC Annex C.2”), ICC-01/14-01/22-174-Conf-AnxC2, 9 March 2023; List of Evidence at Annex A to the Prosecution’s Submission Related to the Chamber’s Decision on issues arising from the submission of the Document Containing the Charges, ICC-01/14-01/22-179-Conf-AnxA, 24 March 2023; Technical Witness Table at Annex to the Prosecution’s Submission of Amended Annex B following the “Decision on the Prosecution’s requests to vary a time limit and/or for reconsideration (ICC-01/14-01/22-180) and to amend its witness table (ICC-01/14-01/22-184)” (ICC-01/14-01/22-190), ICC-01/14-01/22-193-Conf-Anx, 19 April 2023; Analytic Witness Table at Annex C to the Prosecution’s Submission Related to the Chamber’s Decision on issues arising from the submission of the Document Containing the Charges, ICC-01/14-01/22-179-Conf-AnxC, 24 March 2023.

<sup>5</sup> *The Prosecutor v. Germain Katanga*, Judgment pursuant to article 74 of the Statute (“Katanga TJ”), ICC-02/04-01/07-3436-tENG, 7 March 2014, para. 1630 (“To be satisfied that the perpetrator’s acts were encompassed by the common purpose, it will also be necessary to show that the crime at hand formed part of the common purpose. Crimes ensuing solely from opportunistic acts by members of the group and which fall out with the common purpose cannot be attributed to the group’s concerted action. Only those crimes which the group harboured the intention to commit (the common purpose being to commit the crime or encompassing its execution), and falling within the ordinary course of events, can therefore be attributed to the said group and incur the accused’s liability under article 25(3)(d).”).

<sup>6</sup> See *contra* T-008, p. 15, l. 3-12.

group who (directly or indirectly) committed the charged crimes.<sup>7</sup> The Prosecution's submissions that "the Anti-Balaka shared the common purpose"<sup>8</sup> and that "the Anti-Balaka who committed the crimes shared the common purpose"<sup>9</sup> are therefore factually consistent and legally sound.<sup>10</sup>

8. This common purpose may materialise extemporaneously and be inferred from the fact that a plurality of persons act in unison.<sup>11</sup> The group sharing it need not be organised in a military, political or administrative structure.<sup>12</sup> Therefore, it is not required to show that the Anti-Balaka were organised in a certain structure prior to the commission of the crimes, nor that those Anti-Balaka who did not commit any charged crime also shared the common purpose.
9. The Prosecution alleges—unchanged since filing the DCC—that Mr Mokom (i) aided and abetted the charged crimes of the Anti-Balaka in Bossangoa and Bangui as well as (ii) otherwise contributed to the commission of those crimes committed by the Anti-Balaka pursuant to a common purpose, by participating in the formation, structuring, development and organisation of the Anti-Balaka, by coordinating the deployment and military operations of the Anti-Balaka, and by providing logistical support for the military operations of the Anti-Balaka in the period relevant to the charges.<sup>13</sup> At the time of his intentional contributions, Mr Mokom knew that the charged crimes would occur in the ordinary course of events.

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<sup>7</sup> See *Katanga* TJ, para. 1624 (stating that whether part of the group did not commit any crime and did not share the common purpose is irrelevant ("[...] the persons who committed the crime must belong to the group, whether they form all or part of it").

<sup>8</sup> DCC, para. 4.

<sup>9</sup> ICC-01/14-01/22-T-006-CONF-ENG ET ("T-006"), p. 67, l. 13-14, p. 68, l. 24-25; p. 87, l. 12-14.

<sup>10</sup> See *contra* T-008, p. 15, l. 14, p. 16, l. 12.

<sup>11</sup> *Katanga* TJ, para. 1626 referring to *The Prosecutor v. Dusko Tadic*, IT-94-1-A, Judgment ("Tadic AJ"), 15 July 1999, para. 227 (ii).

<sup>12</sup> *Katanga* TJ, para. 1626; *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, Rectificatif à la Décision relative à la confirmation des charges portées contre Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud ("Al Hassan CD"), ICC-01/12-01/18-461-Corr-Red, 13 November 2019, ICC-01/12-01/18-461-Corr-Red, para. 940.

<sup>13</sup> DCC, para. 47 b.-d.

10. In his coordinating role, Mr Mokom provided arms and ammunitions prior to the 5 December 2013 attacks, engaged in strategising with at least some of the group leaders involved in the attacks, and deployed fighters to support the attacks from Zongo. Throughout both attacks he remained in contact with leaders of the attacks. In February 2014, he assumed a formal role in the Anti-Balaka and continued supporting the group through the National Coordination, while some of the charged crimes were still ongoing. His conduct in the relevant timeframe improved the Anti-Balaka's ability to carry out the attacks and thus assisted and contributed to the commission of the charged crimes.

*b. Mr Mokom contributed to the commission of the charged crimes*

11. Mr Mokom's alleged contributions are set out at paragraph 47 a. – e. of the DCC. Since filing the DCC, the Prosecution has further reviewed the evidence and focused on a narrower set of contributions falling under paragraph 47 b., c., and d., in particular by participating in forming, organising, and structuring the Anti-Balaka from its earliest days, especially by supporting the Gobere group and later on in his role as official operations coordinator in Bangui; coordinating the deployment of fighters and military operations of the Anti-Balaka; providing material support, in particular weapons and ammunition; and providing advice, instructions and moral support to Anti-Balaka fighters both before and after the 5 December attacks on Bangui and Bossangoa.<sup>14</sup>

12. In its oral submissions, the Prosecution addressed these forms of contributions listed in paragraph 47 b., c., and d. of the DCC chronologically, not by category.<sup>15</sup> These are the contributions that the Prosecution asks the Chamber to consider in particular, when deciding whether to confirm the charges. In the following

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<sup>14</sup> See T-006, p. 70.

<sup>15</sup> T-006, pp. 44-45, 66-85.

paragraphs, the Prosecution will highlight a few relevant legal considerations as well as further evidence in support of its submissions.

*i. Legal requirements of contributions for the purpose of article 25(3)(c) and (d)*

13. Under article 25(3)(c) it is sufficient that the person provides assistance to the commission of the crime. It is not required that the assistance has a *substantial effect* on the commission of the crime, nor that it meets any specific threshold or be anyhow qualified.<sup>16</sup> This approach departs from the requirement of a substantial contribution at the *ad hoc* tribunals.<sup>17</sup> However, as opposed to the *mens rea* of aiding and abetting before the *ad hoc* tribunals, article 25(3)(c) requires acting for the purpose (and not just with the knowledge) of facilitating the commission of the crime.<sup>18</sup>

14. For the same reasons, and since article 25(3)(c) “was drafted without reference to [direct and substantial] qualifying elements,”<sup>19</sup> the contribution does not have to *directly* assist the commission of the crimes.<sup>20</sup> Therefore, whether the weapons provided by Mr Mokom to the Anti-Balaka were actually used to commit the

<sup>16</sup> *The Prosecutor v. Jean Pierre Bemba Gombo, Aimé Kilolo Musamba, Jean Jacques Magenda Kabongo, Fidèle Babala Wandu and Narcisse Arido*, Judgment pursuant to Article 74 of the Statute (“*Bemba et al. TJ*”), ICC-01/05-01/13-1989-Red, 19 October 2016, para. 93; *The Prosecutor v. Ahmad Al Faqi Al Mahdi*, Decision on the confirmation of charges against Ahmad Al Faqi Al Mahdi (“*Al-Mahdi CD*”), ICC-01/12-01/15-84-Red, 24 March 2016, para. 26; *The Prosecutor v. Dominic Ongwen*, Decision on the confirmation of charges against Dominic Ongwen (“*Ongwen CD*”), ICC-02/04-01/15-422-Red, 23 March 2016, para. 43; *The Prosecutor v. Jean Pierre Bemba Gombo, Aimé Kilolo Musamba, Jean Jacques Magenda Kabongo, Fidèle Babala Wandu and Narcisse Arido*, Judgment on the appeal of Mr Jean-Pierre Bemba Gombo against Trial Chamber III’s “Judgment pursuant to Article 74 of the Statute” (“*Bemba et al. AJ*”), ICC-01/05-01/13-2275-Red, 8 March 2018, paras. 1326-1327; *The Prosecutor v. Jean Pierre Bemba Gombo, Aimé Kilolo Musamba, Jean Jacques Magenda Kabongo, Fidèle Babala Wandu and Narcisse Arido*, Decision pursuant to Article 61(7)(a) and (b) of the Rome Statute (“*Bemba et al. CD*”), ICC-01/05-01/13-749, 11 November 2014, para. 35; *Ble Goude CD*, para. 167. Earlier cases, however, had found that the contribution needs to be *substantial*. See *The Prosecutor v. Calixte Mbarushimana*, Decision on the confirmation of charges (“*Mbarushimana CD*”), ICC-01/04-01/10-465-Red, 16 December 2011, para. 280; *The Prosecutor v. Thomas Lubanga Dyilo*, Judgment pursuant to Article 74 of the Statute, ICC-01/04-01/06-2842, 14 March 2012, para. 997.

<sup>17</sup> *Bemba et al. AJ*, para. 1326.

<sup>18</sup> *Bemba et al. TJ*, para. 97. See also *Bemba et al. AJ*, para. 1327.

<sup>19</sup> *Bemba TJ*, para. 93.

<sup>20</sup> See also *Bemba et al. AJ*, paras. 1329-1330.



charged crimes is immaterial,<sup>21</sup> provided that Mr Mokom's overall contribution assisted, directly or indirectly, the commission of such crimes.

15. Under article 25(3)(d), the person must in any other way contribute to the commission of the crimes. However, such contribution need not be significant<sup>22</sup> nor meet any specific threshold. It is sufficient that the person's conduct has in any way an effect or bearing on the commission of the charged crimes. While in its earlier decisions the Court found that a significant contribution is required under 25(3)(d),<sup>23</sup> more recent and consistent jurisprudence expressly rejected such a threshold.<sup>24</sup> This latest approach is consistent with the plain language of the Statute and the residual nature of 25(3)(d), which is meant to criminalise conduct that contributes "in any other way" to the commission of the crime.

16. Finally, also under 25(3)(d) there is no need to establish that the contribution had a *direct impact* on a *specific* charged crime.<sup>25</sup> First, the contribution does not have to be made directly to the physical perpetrators; rather, indirect contributions to the crimes are sufficient.<sup>26</sup> Second, the contribution must be assessed with respect to the type of crimes (for example, murder or destruction of property) and not with respect to each criminal incident.<sup>27</sup>

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<sup>21</sup> *Contra* Defence oral submissions, T-008, p. 12, l. 3-9.

<sup>22</sup> *Contra* Defence oral submissions, T-008, p. 8, l. 1-4; p. 11, l. 14-18; p. 49, l. 21- p. 50, l. 2.

<sup>23</sup> *Katanga* TJ, para. 1632; *Mbarushimana* CD, paras. 276-285. In the *Katanga* Confirmation Decision the Judges explained that by significant they meant "a contribution that may influence the commission of crimes" excluding those conducts "inconsequential and immaterial" to the commission of the crimes (*Katanga* TJ, para. 1632). In this sense, the Prosecution agrees that *inconsequential* or *immaterial* contribution would not be sufficient for the purpose of article 25(3)(d), since they would not have any required perceivable effect/bearing on the commission of the crime.

<sup>24</sup> *Ongwen* CD, para. 44; *Al Mahdi* CD, para. 27; *Al Hassan* CD, para. 948; *The 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, ICC-01/04-02/06-309, 9 June 2014, para. 158; *The Prosecutor v. Charles Blé Goudé*, Decision on the confirmation of charges against Charles Blé Goudé ("*Blé Goudé* CD"), ICC-02/11-02/11-186, 11 December 2014, para. 172.

<sup>25</sup> *Contra* Defence oral submissions, T-008, p. 12, l. 3-9.

<sup>26</sup> *Al Hassan* CD, para. 945; *Katanga* TJ, para. 1635. *Contra* Defence oral submissions, T-008, p. 12, l. 3-9.

<sup>27</sup> *Al Hassan* CD, para. 950.

- ii. *Mr Mokom's contributions to the organisation and coordination of the group, including deployment of fighters (paragraph 47 b. and c. of the DCC)*

17. The Prosecution alleges that Mr Mokom participated in the organisation and coordination of the Anti-Balaka in particular by deploying fighters from Zongo to participate in the attacks and by providing strategic advice ahead of the charged attacks.

18. The evidence listed at rows 124-129 of DCC Annex C.1 shows that Mr Mokom was in close contact and coordinated with Anti-Balaka elements in Gobere and at the Cameroon/CAR border from Zongo at the time when the Anti-Balaka were forming, structuring and acquiring a military-like structure.

19. As stated at the Confirmation Hearing,<sup>28</sup> the Prosecution is not alleging that Mr Mokom was the only person seeking to coordinate or plan Anti-Balaka military operations in advance of the 5 December 2013 attacks. However, with regard to the material facts alleged in paragraphs 50 and 51 of the DCC, the evidence does support that he was, at a minimum, one of the more prominent persons helping to structure the Anti-Balaka in this period. His position of influence was such that many Anti-Balaka—including elements on the ground during operations—understood him to be the overall operations coordinator.<sup>29</sup>

20. There is evidence indicating that Mr Mokom also understood himself to be the overall operations coordinator in this period. For example, [REDACTED].<sup>30</sup>

21. Two Prosecution witnesses [REDACTED] (P-0889 and P-2232) understood from their vantage point that Mr Mokom was the overall Anti-Balaka operations

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<sup>28</sup> See T-006, p. 75.

<sup>29</sup> For example, as stated at the hearing, P-0446, a direct participant in the 5 December 2013 Bangui operation, understood that it was Mr Mokom who was the overall coordinator of that operation. See T-006, p. 75 (citing P-0446, CAR-OTP-2059-1672 at 1693). Of note, P-0446 held firm on this point during his interview, even when pressed on why Mr Mokom—from Zongo—would be the overall coordinator, rather than Konate or others on the ground. See also [REDACTED].

<sup>30</sup> [REDACTED].

coordinator, based on what they saw and heard and what Mr Mokom himself told them. Among other things, they describe that Mr Mokom was constantly on the phone communicating with Anti-Balaka elements in the field, including on the day of the 5 December 2013 attacks.<sup>31</sup>

22. Other Prosecution witnesses in touch with Mr Mokom in advance of the 5 December 2013 attacks confirm that Mr Mokom told them that he was working to coordinate the Anti-Balaka and asked for or provided information consistent with him having such a role. For example, Prosecution witness P-1172,<sup>32</sup> who was with Mr Mokom in Zongo, states that Mr Mokom informed him at the time that he was in contact with the leaders of Anti-Balaka groups and that Mr Mokom would ask for his advice about military tactics, in order to pass this along to the Anti-Balaka in the provinces.<sup>33</sup> Similarly, Prosecution witness P-0884, who was in Bangui for most of 2013, states that Mr Mokom told him that he was coordinating the Anti-Balaka, and gave him real-time updates on operations as they proceeded.<sup>34</sup> P-0884 also reports that he heard from the Anti-Balaka ground elements, after they arrived in Bangui, that Mr Mokom had been their principal point of contact, their “commander,” while they were in the bush.<sup>35</sup> P-1847, [REDACTED], also reports that Mokom was involved in coordinating and supplying the Anti-Balaka in Bossangoa.<sup>36</sup>

<sup>31</sup> See T-006, p. 71, pp. 75-76 (citing P-0889: CAR-OTP-2027-2290 at 2295-2296; CAR-OTP-2122-7600 at 7623, and P-2232: CAR-OTP-2100-2569-R01 at 2574-2576). See also P-2232’s trial testimony: CAR-OTP-00000899, pp. 54, 72-73; P-0889’s trial testimony: CAR-OTP-00000942, p. 75, and interview transcripts adopted under rule 68(3), including CAR-OTP-2122-7626 at 7637-7639.

<sup>32</sup> P-1172 is deceased, see CAR-OTP-2127-9237.

<sup>33</sup> P-1172: CAR-OTP-2082-1058 at 1063-1064, paras. 29-34; see also *id.*, para. 36 (apparently stating that he heard about the 5 December 2013 Bangui attack a day or two in advance of when it started, and it was Mr Mokom who told him).

<sup>34</sup> P-0884: CAR-OTP-00001097, pp. 22, 40, 47-49; CAR-OTP-00001099, pp. 3, 5-6. Call data records support that Mr Mokom and P-0884 were in frequent contact in the relevant period.

<sup>35</sup> P-0884: CAR-OTP-00001097, pp. 32-34, 38-40. See also P-0889: CAR-OTP-00000942, pp. 16-17, 47-48, 50, 54, 75 (opining that Mr Mokom who helped unify the Anti-Balaka and motivate them to come to Bangui, and it would not have happened without him).

<sup>36</sup> P-1847: CAR-OTP-2061-1534, paras. 102, 150, 194; CAR-OTP-2122-8251, paras. 45, 138 [REDACTED]; P-1847: CAR-OTP-00000864, pp. 91-92.

23. From their side, Anti-Balaka insider witnesses who participated in the fighting in 2013 (*e.g.*, P-0966, P-1339, P-1719, P-1521, and P-2269) confirm that they or their leaders were in communication with Mr Mokom while in the bush.<sup>37</sup>
24. That some witnesses may not consider Mr Mokom to have been the overall operations coordinator of the Anti-Balaka prior to the 5 December 2013 operations<sup>38</sup> does not undermine his responsibility as an accessory to the charged crimes. Call data records with solid attributions show that Mr Mokom was in contact with principal actors of both the Bangui and Bossangoa attacks.<sup>39</sup> Even if Mr Mokom was not considered the overall coordinator by everyone who carried out the attacks, and even if *arguendo* he was not issuing orders or instructions, at a minimum, he supported and gave advice during his frequent communications with Anti-Balaka elements and leaders of the 5 December 2013 attacks. Moreover Mr Mokom's communications with other Anti-Balaka figures have to be considered alongside Mr Mokom's various other activities contributing to the commission of the charged crimes, including sending fighters, weapons, and ammunition.<sup>40</sup>

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<sup>37</sup> See T-006, pp. 73-75 ([REDACTED]); P-2269: CAR-OTP-2111-0336, para. 54 ([REDACTED]), para. 79 ([REDACTED]); P-1339: CAR-OTP-2041-0741 at 0750, para. 64 ([REDACTED]); P-1719: CAR-OTP-2062-0039 at 0046, paras. 41-42 ([REDACTED]); P-1521: CAR-OTP-2046-0603 at 0610, para. 43 ([REDACTED]); CAR-OTP-00000909, pp. 68-69 (confirming that Mr Mokom was in contact with Dedane); CAR-OTP-00000911, pp. 76-77 (confirming Mokom in contact with Dangba); *but see* P-1521: CAR-OTP-00000909, pp. 40, 51 (seemingly denying communication with Mr Mokom in the period just before the 5 December 2013 attack [REDACTED]).

<sup>38</sup> See T-007, p. 28 (referring to P-1521's evidence and stating "[s]o strike out from any crimes alleged against Mr Mokom those committed by Andjilo. He refuses to be coordinated by Mokom or by anyone else."), p. 32 (referring to P-0966's evidence describing Andjilo as "uncontrollable" after the Bouca battle and "not respecting instructions or orders").

<sup>39</sup> For attributions, see DCC Annex C.2.

<sup>40</sup> See T-006, pp. 67, 69-74; *see also* P-1847: CAR-OTP-2061-1534 at 1558, para. 150 ([REDACTED]); P-0884: CAR-OTP-00001097, pp. 69-70 (reporting that according to his information, it was Mr Mokom who supplied the ammunition for the Anti-Balaka's hunting weapons).

25. As noted at the Confirmation Hearing, documentary evidence as well as witness accounts show that Mr Mokom encouraged men from his Zongo group to cross over to Bangui to fight in the charged Bangui attack.<sup>41</sup>
26. In addition to those fighters, P-2269 was sent by Mr Mokom from Zongo to Gobere in mid-2013 with the specific task to help organise the rebellion.<sup>42</sup> As an early member of the Gobere group, P-2269 is well-placed to speak about the mindset of its members. He states: “[REDACTED].”<sup>43</sup>
27. It is important to recall that this Gobere group—a group that Mr Mokom supported in various ways, a group that, as noted above, was described by one of its members as not differentiating between Muslim civilians and Seleka—is the group of Anti-Balaka that supplied the fighters who carried out the 5 December Bossangoa attack,<sup>44</sup> and was one of the main groups of Anti-Balaka that carried out the 5 December Bangui attack.<sup>45</sup> Mr Mokom was influential in encouraging the disparate actors that made up the Gobere group to come together, and to ultimately launch the large-scale attacks on 5 December 2013.<sup>46</sup>

<sup>41</sup> See T-006, pp. 71-72 (citing P-0446, P-2269, and Facebook material); see also DCC Annex C.1, row 64; P-2232’s trial testimony: CAR-OTP-00001062, pp. 21-22.

<sup>42</sup> See T-006, p. 72.

<sup>43</sup> P-2269: CAR-OTP-2111-0336 at 0357, para. 161. *But see id.*, paras. 65-66 ([REDACTED]), as cited by the Defence at T-007, p. 43. P-2269 is unavailable and may be presumed dead—see CAR-OTP-00001708; CAR-OTP-00001711. The Prosecution would file a rule 68(2)(c) application at trial as has been done in the *Said* case. See the *Prosecutor v. Mahamat Said Abdel Kani*, Public Redacted Version of ‘Prosecution Request under Rule 68(2)(c) to Introduce the Prior Recorded Testimony of P-2269’, ICC-01/14-01/21-628-Conf, dated 31 July 2023, ICC-01/14-01/21-628-Red, 3 August 2023.

<sup>44</sup> See T-006, pp. 73-75 ([REDACTED]); P-2269: CAR-OTP-2111-0336 at 0344, para. 58, at 0346, para. 77, at 0357, para. 157 ([REDACTED]); P-1521: CAR-OTP-2046-0603 at 0609, p. 35 (describing the split of the Gobere group with some going to Bossangoa and others in the direction of Bossembele and Bouca).

<sup>45</sup> Notably, in his unsworn statement at the Confirmation Hearing, Mr Mokom himself seemingly puts the Gobere group at the heart of the Anti-Balaka movement. See T-006, p. 39; see also T-007, p. 29 (Defence counsel acknowledging the importance of Gobere to the Anti-Balaka movement).

<sup>46</sup> See T-006, p. 26 (general reference to Mr Mokom “encouraging and arming the Anti-Balaka from Zongo”), p. 45 (citing generally to P-0889 and P-2232), p. 73 (citing P-0889 trial testimony: CAR-OTP-00000942 at pp. 16-17). See also P-0884: CAR-OTP-00001097, pp. 21-22, 40; P-2232: CAR-OTP-00001062, p. 49.

28. Mr Mokom continued to support the Anti-Balaka after the charged 5 December attacks.<sup>47</sup> He assumed the formal role of National Operations Coordinator and relocated to Bangui, galvanising the zone commanders (“ComZones”) who had taken part in the attack.<sup>48</sup> He toured the bases, which had been established by Anti-Balaka ComZones in different parts of Bangui in the aftermath of the attack.<sup>49</sup> In his role, Mr Mokom checked with ComZones on the situation in their neighbourhoods, verified information on attacks and responded to people also by phone.<sup>50</sup> The Prosecution also directs the Chamber’s attention to P-1719 and P-0884 as well as documentary evidence.<sup>51</sup> In this period, Mr Mokom also remained in close contact with Florent Kema who had assumed control over Bossangoa.<sup>52</sup>

29. Mr Mokom’s logistical support continued after the attacks of 5 December. He attended to the needs of the groups and the elements in the bases in Bangui but also worked to coordinate the groups in the provinces. There is direct evidence that he was involved in [REDACTED] in the timeframe relevant to the charges—a pertinent example that he was working towards cementing their influence in a time when a civilian transitional government was struggling to maintain order.<sup>53</sup> At this time, Muslim civilians were still enclaved in both Bossangoa and Bangui.

<sup>47</sup> See, e.g., CAR-OTP-2065-2903 at timestamp 00:01:10 – 00:01:35 (Video film of Yagouzou having a discussion about instructions from “Commander Mokom”; Mokom mentioned at approx. 00:01:18); CAR-OTP-00000810, p. 3, lns. 24-34 (French transcript and translation).

<sup>48</sup> P-2232: CAR-OTP-2090-0561-R01 at 0579, para. 138. See also P-0889: CAR-OTP-00000942, p. 56, l. 20-p. 57, l. 14.

<sup>49</sup> P-2232: CAR-OTP-00000901, pp. 8-9; CAR-OTP-00000903, pp. 62-63.

<sup>50</sup> P-1521: CAR-OTP-2046-0603 at 0615-0616, 0619-0620, paras. 77, 81, 96, 1011.

<sup>51</sup> P-1719: CAR-OTP-2062-0039 at 0046, paras. 41-42 ([REDACTED]); P-0884: CAR-OTP-2072-1739-R01 at 1753-1757, l. 479-611 (stating that Mr Mokom would ask Yagouzou to gather the ComZones at Ngaissona’s house); CAR-OTP-2025-0380; CAR-OTP-2035-0061.

<sup>52</sup> See DCC Annex C.1, rows 120, 131-132, 139; DCC Annex C.2, paras. 19-20; CAR-OTP-00001197, p. 0003; CAR-OTP-00001172; CAR-OTP-2030-0280; P-0884: CAR-OTP-2080-1678 at 1703-1704, l. 839-898; CAR-OTP-2072-1541 at 1559-1562, l. 615-705; CAR-OTP-2072-1739-R01 at 1756-1758, l. 562-634; P-2232: CAR-OTP-2090-0561-R01 at 0574, para. 84; CAR-OTP-2100-2569-R01 at 2588-2589, paras. 108-112; CAR-OTP-2100-2569-R01 at 2582-2585, paras. 66-71, 75, 78, 87; P-1042: CAR-OTP-2107-0591-R01 at 0608, l. 546-577; P-0889: CAR-OTP-2122-7554-R01 at 7570, l. 641-647; CAR-OTP-2122-7962-R01 at 7971, l. 325-332; P-0808: CAR-OTP-2093-0010-R01 at 0029-0030, paras. 106, 114; P-0283: CAR-OTP-2001-5365.

<sup>53</sup> P-2232: CAR-OTP-00000901, p. 33, l. 1-p. 36, l. 4; CAR-OTP-2090-0561-R01 at 0574, 0593-0594, paras. 82, 238-245.

In Bossangoa, the last convoy left in April 2014.<sup>54</sup> Similarly, in Bangui, convoys were still leaving in April 2014.<sup>55</sup>

*iii. Mr Mokom's provision of material support, including weapons and ammunition (paragraph 47 d. of the DCC)*

30. The Prosecution alleges that Mr Mokom provided weapons and ammunitions to the Anti-Balaka in advance of and in close proximity to the charged 5 December attacks on Bangui and Bossangoa.

31. At the Confirmation Hearing, the Prosecution set out the example of Mr Mokom organising a delivery of weapons and ammunition to Bossangoa, which resulted in making the Anti-Balaka stronger and thereby supported their commission of crimes.<sup>56</sup> The law does not require a showing of particular, specific weapons being used to commit the charged crimes.<sup>57</sup>

32. Similarly, the Defence's attack [REDACTED]<sup>58</sup> fails as the Defence raises evidentiary or credibility issues that can only be properly resolved at trial.

33. While it is true that the Anti-Balaka were far less well armed than the Seleka,<sup>59</sup> they did have some "war weapons" like Kalashnikovs, in addition to hunting weapons and sticks. Those weapons contributed to their ability to commit the charged crimes, including attacking the civilian population. Eyewitnesses of the charged Bossangoa and Bangui attacks saw at least some Anti-Balaka carrying weapons

<sup>54</sup> MSF Press article dated 14 May 2014, CAR-OTP-2001-2885.

<sup>55</sup> P-1576; CAR-OTP-2060-0280 at 0285, para. 33; and photographs CAR-OTP-2061-4281; CAR-OTP-2061-4284; CAR-OTP-2061-4285; CAR-OTP-2061-4286; CAR-OTP-2061-4287; CAR-OTP-2061-4288.

<sup>56</sup> See T-006, pp. 69-70 ([REDACTED]).

<sup>57</sup> See para. 14 *supra*; see *contra* T-007, p. 43 ([REDACTED]); T-008, pp. 10-11 ("no attempt by the Prosecution to show that *these guns*, that *this ammunition...*") (emphasis added).

<sup>58</sup> For the Prosecution presentation of this example, see T-006, p. 70 ([REDACTED]). For the Defence position, see T-007, p. 44.

<sup>59</sup> *Contra* Defence submission, T-007, p. 44 (citing P-2269's statement comparing the Anti-Balaka to the more heavily armed Seleka).

like AK47s<sup>60</sup> and Muslim civilians being harmed or threatened with use of such weapons.<sup>61</sup>

34. In relation to para. 47 d. of the DCC, the Prosecution no longer alleges Mr Mokom provided funds to the Anti-Balaka.

*iv. Mr Mokom's participation in the planning of the common purpose (paragraph 47 a. of the DCC)*

35. The evidence shows that Mr Mokom was one of the founders of the Anti-Balaka; he was in close contact with members of Bozize's inner circle and believed the Anti-Balaka should remove the Seleka and bring back Bozize to power.<sup>62</sup> Based on this evidence, it can be inferred that Mr Mokom participated in the planning of the implementation of the Anti-Balaka operations to remove the Seleka from power, even in the absence of direct evidence of such planning.

*v. Mr Mokom's supporting, promoting and endorsing the crimes (paragraph 47 e. of the DCC)*

36. Mr Mokom's alleged contribution of "supporting, promoting and endorsing the crimes" (as formulated in para. 47 e. of the DCC) is the result of his conduct and contributions as defined under para. 47 b., c., and d. In particular, the evidence in DCC Annex C.1 (rows 150-163), shows that Mr Mokom maintained a close relationship with and supported Anti-Balaka leaders including main protagonists of the December attacks on Bangui and Bossangoa, and sought to prevent the arrest or to otherwise free members of the group that were detained in Bangui. Based on

<sup>60</sup> See, e.g., P-0475: CAR-OTP-2104-0116 at 0120, para. 27 ("When Anti-Balaka arrived in Bangui, they had weapons and guns."); P-1528: CAR-OTP-2048-0757 at 0762, paras. 27, 31 (during the 5 December Bangui attack, the witness heard rapid-fire of Kalashnikovs and saw an Anti-Balaka in front of his house armed with a Kalashnikov).

<sup>61</sup> See, e.g., P-1528: CAR-OTP-2048-0757 at 0762, para. 31 (killing of a Muslim man by a group of Anti-Balaka armed with a Kalashnikov and three machetes).

<sup>62</sup> See DCC Annex C.1, rows 121-123.



the totality of this evidence it can be inferred that Mr Mokom promoted and endorsed the alleged crimes.

37. In sum, as noted above, Mr Mokom's contributions—considered in their totality—assisted the charged crimes in the period relevant to the charges as they contributed overall to the strengthening of the Anti-Balaka as a fighting force and to their morale.

*vi. The perpetrators of the crimes*

38. There are substantial grounds to believe that Mr Mokom assisted crimes by the Anti-Balaka.<sup>63</sup>

39. In attempting to challenge the Prosecution's case, the Defence focused on the evidence of the Prosecution's insider witnesses<sup>64</sup> but ignored the eyewitness evidence of the Prosecution's victim witnesses, who directly link the Anti-Balaka with specific crimes.<sup>65</sup>

40. For example, P-1528 reports that during the 5 December Bangui attack, he saw a group of Anti-Balaka armed with a Kalashnikov and three machetes chase and catch a Muslim man on the road in front of his house; the Anti-Balaka were

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<sup>63</sup> *Contra* T-007, pp. 56-57.

<sup>64</sup> As the Defence has pointed out, some Prosecution witnesses involved in the charged 5 December 2013 operations give fairly general information about the operations and avoid discussing or deny the occurrence of specific crimes. See Defence submissions, T-007, pp. 63-64, referring to P-1521 and P-0446; see also, e.g., P-1521: CAR-OTP-00000913, p. 4, l. 6-10 (stating that the goal of the Anti-Balaka on the 5 December was to target Seleka bases, not the Muslim community). The evidence provided, while inconsistent with the Prosecution's theory, may be attributable to a lack of candour given the witnesses' own involvement and potential exposure as direct participants in attacks where serious crimes occurred. In any case, at least one direct participant in the 5 December 2013 Bangui attack—P-1339—is explicit about the Anti-Balaka committing crimes pursuant to a common purpose of the group. See *infra*, para. 42.

<sup>65</sup> For examples specifically highlighted by the Prosecution at the Confirmation Hearing, see T-006, pp. 46-54 (Bangui); pp. 55-61 (Bossangoa). See, e.g., P-1528: CAR-OTP-2048-0757 at 0762-0764, paras. 30, 35, 37-39 ([REDACTED]); P-0475: CAR-OTP-2104-0116 at 0120, 0124-0125, 0129, para. 27 ("When Anti-Balaka entered BANGUI, they committed the same acts as of the Seleka did, but they targeted the Muslims a lot more."), paras. 60, 65 (targeting of Muslim-owned property); para. 105 (on how the Anti-Balaka could identify who was Muslim).

shouting: “This is an Arab”<sup>66</sup> and beat him to death while he pled for help. P-1528 later saw the dead body of this man with wounds all over it.<sup>67</sup>

41. In relation to the 5 December Bossangoa attack, P-2462 describes how Anti-Balaka attackers wearing *gris-gris*, surrounded and shot at her family, a group of Muslim civilians—including women “dressed up like Muslims would do” and wearing head scarves.<sup>68</sup> [REDACTED].<sup>69</sup> Similarly, P-2657, [REDACTED],<sup>70</sup> describes the crimes perpetrated by the Anti-Balaka against [REDACTED] while they sought to flee the 5 December Bossangoa attack.<sup>71</sup> [REDACTED].<sup>72</sup>

42. Furthermore, the Defence has overlooked relevant evidence linking Anti-Balaka to charged crimes. For example, in relation to the 5 December 2013 Bangui attack, P-1339, a direct perpetrator, confirms that his group—led by Yekatom—were instructed to kill all Muslims and destroy Muslim houses.<sup>73</sup> [REDACTED].<sup>74</sup> Mr Mokom and Yekatom were in contact in advance of the 5 December 2013 attacks, including in communications the very day before the attack.<sup>75</sup>

43. P-0884, also present in Boeing during the 5 December attack, gives a similar account as P-1339. Specifically, he states that the Anti-Balaka started destroying the mosque, and the civilian population then followed.<sup>76</sup> That the local population

<sup>66</sup> [REDACTED].

<sup>67</sup> P-1528: CAR-OTP-2048-0757 at 0762, para. 31; [REDACTED]. *See also* P-0434: CAR-OTP-2014-0660 at 0665-0666, paras. 27-30 (reporting that he witnessed a large group of Anti-Balaka pillage his Bangui home [REDACTED]).

<sup>68</sup> P-2462, CAR-OTP-00000893, p. 23; CAR-OTP-00000895, p. 38, l. 11-13; CAR-OTP-2111-0452 at 0460-0461, paras. 41-45.

<sup>69</sup> P-2462: CAR-OTP-00000893, pp. 23-24, 35-36, 40; CAR-OTP-00000895, pp. 30, 35, 38; CAR-OTP-2111-0452 at 0461-0464, paras. 45-49, 55-56, 59.

<sup>70</sup> P-2657: CAR-OTP-2126-0058 at 0066, para. 52; CAR-OTP-00000938, p. 25.

<sup>71</sup> P-2657: CAR-OTP-2126-0058 at 0064-0069, paras. 36, 39, 42, 45, 48-52, 68; CAR-OTP-00000938, pp. 18-20, 24-27, 40.

<sup>72</sup> P-2657: CAR-OTP-2126-0058 at 0064-0069, paras. 36, 39, 42, 45, 48-52, 68; CAR-OTP-00000938, pp. 18-20, 24-27, 40.

<sup>73</sup> P-1339: CAR-OTP-2041-0741 at 0748-0749, paras. 51, 54. P-1339 repeatedly confirmed this point during his trial testimony. *See, e.g.*, CAR-OTP-00000972, pp. 11, 15, 18, 71; CAR-OTP-00000976, p. 37. *But see* discussion on the 10<sup>th</sup> day of P-1339’s testimony: CAR-OTP-00000988, p. 8, l. 23-25.

<sup>74</sup> P-1339: CAR-OTP-2041-0741 at 0749, paras. 52-53; CAR-OTP-00000976, pp. 82-83, 85-86; CAR-OTP-00000988, pp. 23-25, 27, 36. *But see* CAR-OTP-00000976, pp. 77, 79.

<sup>75</sup> CAR-OTP-2054-1480, rows 128543, 128544 and 212397. *See also* CST CAR-OTP-00001189, rows 83–85.

<sup>76</sup> *See* P-0884: CAR-OTP-00001101, p. 57, l. 10-12.

was also involved in the destruction of the Boeing mosque does not undermine Mr Mokom's contribution to the destruction by way of his support to the Anti-Balaka, as set out above.

*c. Mr Mokom had the requisite mens rea*

44. At the time of his contributions, Mr Mokom knew that the crimes would occur in the ordinary course of events and of the Anti-Balaka's intention to commit them. Further, Mr Mokom acted for the purpose of facilitating the commission of the crimes and with the aim of furthering the Anti-Balaka's criminal activities or purpose.
45. The material facts for Mr Mokom's *mens rea* are set out at paragraphs 57-59 of the DCC.
46. Since filing the DCC, the Prosecution has further reviewed the evidence and as a result focusses its submissions in particular on the following factors, which are inherent in paragraph 59 a., b. and c. of the DCC.
47. *First*, Mr Mokom's connections, role and activity in the time period relevant to the charges required him to be in constant contact (which he was) with Anti-Balaka ComZones on the ground as well as Anti-Balaka leaders who then became members of the National Coordination. This gave him an inside role that allowed him access to information and strategic planning (paragraph 59 a.).
48. *Second*, it was common knowledge that many Anti-Balaka fighters and their leaders were motivated by vengeance and hatred. They did not distinguish between Seleka and Muslim civilians. Anti-Balaka attacks did not only target Seleka positions and elements, but routinely resulted in Muslim civilian casualties and destruction of property (paragraph 59 b. and c.).

49. *Third*, when Mr Mokom relocated to Bangui, he was in close proximity to the crimes as they were happening. Despite this awareness, Mr Mokom continued to support the Anti-Balaka to make it stronger and more effective (paragraph 59 c.)<sup>77</sup>

50. Mr Mokom therefore possessed at least the required *mens rea* under article 25(3)(d)(ii).

*i. Legal requirements for mens rea under articles 25(3)(c) and (d)*

51. While article 25(3)(c) requires acting “for the purpose of facilitating”, this element only applies to the accessory’s facilitation, not to the principal offence. The suspect must only intend their assistance to facilitate the commission of the crimes, but does not have to share the intent of the perpetrators for the charged crimes.<sup>78</sup> Irrespective of whether Mr Mokom intended the charged crimes, he intended his contribution to assist them.

52. The Prosecution’s case is that Mr Mokom knowingly and intentionally contributed to the crimes.<sup>79</sup> This is not a “should have known” case.<sup>80</sup> In its oral submissions the Prosecution argued that Mr Mokom “must have known”<sup>81</sup> in the sense that the evidence compels the inference that there are substantial grounds to believe that, at a minimum, Mr Mokom knew that the charged crimes would occur in the ordinary course of events and knew of the intention of the Anti-Balaka to commit such crimes, as required by article 25(3)(d)(ii).<sup>82</sup>

*ii. Mr Mokom had the requisite mens rea*

<sup>77</sup> See T-006, pp. 67-68, 87-93.

<sup>78</sup> *Bemba et al* TJ, para. 97; *Ongwen* CD, para. 43; *Al Mahdi* CD, para. 27; *Blé Goudé* CD, para. 167.

<sup>79</sup> DCC, paras. 57-58; T-006, p. 86, l. 4-7.

<sup>80</sup> T-008, p. 3, l. 7-11, p. 21, l. 11-16.

<sup>81</sup> T-008, p. 3, l. 23-24. See T-006, p. 63 (“must have known”).

<sup>82</sup> DCC, para. 57. See also T-006, p. 68, l. 8; p. 86, l. 4-24; p. 87, l. 18-20.

53. Contrary to the Defence's submission that the direct evidence only points away from Mr Mokom having the requisite *mens rea*,<sup>83</sup> the Prosecution has presented relevant evidence,<sup>84</sup> including the statements of P-1719,<sup>85</sup> P-2027,<sup>86</sup> and P-2841.<sup>87</sup> This evidence is supported by Mr Mokom's own words expressing, at a minimum, indifference in relation to harm caused to Muslim civilians, including words expressed in advance of the charged crimes ([REDACTED])<sup>88</sup> and towards the end of the charged time period ([REDACTED]).<sup>89</sup>

54. That Mr Mokom was not a "man of peace" is confirmed [REDACTED].<sup>90</sup> [REDACTED].<sup>91</sup> Despite this type of intervention and all the other information available to him as a senior Anti-Balaka, Mr Mokom proceeded in actively supporting the imminent Anti-Balaka military operation on Bangui, including while it was underway.

55. Furthermore, Mr Mokom continued to contribute to the Anti-Balaka's crimes, despite the situation for the Muslim population becoming increasingly dire as time went by.<sup>92</sup> Contrary to the Defence's submission that Mr Mokom remained in Zongo purportedly uninvolved in Anti-Balaka affairs until returning to Bangui to "work for peace" in February 2014,<sup>93</sup> the evidence shows that Mr Mokom was active between the 5 December 2013 attacks and his relocation to Bangui in

<sup>83</sup> See T-008, pp. 11-12 (in the context of aiding and abetting).

<sup>84</sup> See T-006, pp. 23-26, 44, 63-65, 80-85; T-008, pp. 26-27 (citing, *inter alia*, P-0884: CAR-OTP-00001097, pp. 40-41, 53-55, 61; P-2232: CAR-OTP-00000899, p. 65, l. 13-24; CAR-OTP-00000901, pp. 27-28; [REDACTED]; media articles such as CAR-OTP-2001-4118, describing CAR, as early as November 2013, as a "religious tinderbox", with youth having a "thirst for revenge" and considering Muslims as their enemies, and victims of early Anti-Balaka attacks describing entire Muslim families being targeted, women and children included).

<sup>85</sup> P-1719: CAR-OTP-2062-0039 at 0052, para. 83.

<sup>86</sup> P-2027: CAR-OTP-2078-0059, paras. 88 and 136.

<sup>87</sup> P-2841: CAR-OTP-2127-4238 at 4270, para. 177.

<sup>88</sup> See T-006, p. 82 ([REDACTED]); *but see* T-007, pp. 34-38.

<sup>89</sup> See T-006, p. 82 ([REDACTED]). [REDACTED].

<sup>90</sup> See T-006, p. 82 ([REDACTED]).

<sup>91</sup> P-0876: CAR-OTP-2046-0249 at 0259-0261, l. 375-491; CAR-OTP-2046-0407 at 0409-0416, l. 71-340; CAR-OTP-00000917, p. 25, l. 6-p. 30, l. 11.

<sup>92</sup> See T-006, pp. 44-54, 64-65.

<sup>93</sup> See T-007, p. 71 ("Where is Mokom? He stays in Zongo until February. You think he runs to Bangui to get the position? He remains in Zongo.").

February 2014.<sup>94</sup> This evidence reflects Mr Mokom's desire to be a member of Anti-Balaka leadership and his efforts to secure his position in the hierarchy in the December 2013 and January 2014 period, well prior to his formal relocation to Bangui in February 2014. Mr Mokom was willing to proceed in supporting the Anti-Balaka, whatever the cost, in pursuit of his primary objective, to oust the Seleka and take back power for Bozize.

56. Mr Mokom's *mens rea* has to be assessed in context, including the explosive situation that existed in CAR at the time. Mr Mokom actively supported the Anti-Balaka as a fighting force and encouraged it to carry out large-scale attacks, even though he knew that the group included many people who were motivated to join out of revenge,<sup>95</sup> many people who were not professional soldiers, and therefore many people who had not been well-trained in the rules of war or the principle of distinction.<sup>96</sup>

57. This context was well known to Mr Mokom, since crimes against Muslim civilians were widely reported in the national and international media,<sup>97</sup> to which Mr Mokom had access,<sup>98</sup> and by international governmental and non-governmental organisations.<sup>99</sup> Witnesses also state that Mokom was informed of specific ongoing events.<sup>100</sup>

<sup>94</sup> See, e.g., P-1521: CAR-OTP-00000913, pp. 16-20 ([REDACTED]); CAR-OTP-2030-0280 ([REDACTED]), see P-0889: CAR-OTP-2027-2290 at 2299, paras. 54-56, CAR-OTP-00000942, pp. 46-47, 52-54).

<sup>95</sup> In relation to the revenge motivation of many Anti-Balaka fighters, including its leaders on the ground, see also the Defence submissions about Andjilo and Lebene's personal motivation to join the Anti-Balaka. See T-006, pp. 24-25 (citing P-0884 on Lebene and P-1521 on Andjilo). See also P-1339: CAR-OTP-00000972, p. 15 ("[REDACTED]."); P-0884: CAR-OTP-00001097, p. 63 (opining that the Anti-Balaka were "very enraged" and "that's what took them all the way to Bangui") and CAR-OTP-00001099, p. 6 (speaking about the 5 December Bangui attack and noting that "people sought revenge").

<sup>96</sup> For evidence that Mr Mokom was aware that the Gobre group was principally comprised of civilian elements, not professional soldiers, see P-1172: CAR-OTP-2082-1058 at 1063-1064.

<sup>97</sup> CAR-OTP-2061-1427; CAR-OTP-2079-0622; CAR-OTP-2074-0421; CAR-OTP-2001-4118; CAR-OTP-2082-0793; CAR-OTP-2079-1940; CAR-OTP-2088-2648; CAR-OTP-2001-4429; CAR-OTP-2079-1166; CAR-OTP-2001-4446; CAR-OTP-2079-1147; CAR-OTP-2001-4330.

<sup>98</sup> P-2232: CAR-OTP-2100-2569-R01 at 2574, para. 27.

<sup>99</sup> CAR-OTP-2001-0256; CAR-OTP-2001-0275; CAR-OTP-2051-0665; CAR-OTP-2001-1043; CAR-OTP-2091-0488.

<sup>100</sup> P-2232: CAR-OTP-00000899, pp. 59-60; P-1719: CAR-OTP-2062-0039 at 0052, para. 83; P-1074: CAR-OTP-2094-0228 at 0250, para. 125, at 0251, para 131.

58. It cannot be the case that Mr Mokom, who in Zongo heard that the Seleka were committing crimes,<sup>101</sup> remained in the dark about the crimes committed by the Anti-Balaka. There are therefore substantial grounds to believe that the information in question was so widely known that Mr Mokom, particularly in light of his role and position, knew that crimes would occur in the ordinary course of events when he supported their activities and knew of the Anti-Balaka's motivation and intent to commit such crimes.

#### IV. CONCLUSION

59. For the reasons above, the Prosecution respectfully requests that the Chamber confirm the charges against Mr Mokom.



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**Karim A. A. Khan KC, Prosecutor**

Dated this 26<sup>th</sup> day of September 2023

At The Hague, The Netherlands

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<sup>101</sup> See T-006, p. 37 (referencing, albeit in an unsworn statement, knowing about Seleka crimes while in Zongo, including because it was related by “international and local media”), p. 83.