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TRIAL CHAMBER V

Before: Judge Bertram Schmitt, Presiding Judge
Judge Péter Kovács
Judge Chang-Ho Chung
Judge Beti Hohler, Alternate Judge

SITUATION IN THE CENTRAL AFRICAN REPUBLIC II

**IN THE CASE OF
*THE PROSECUTOR v. ALFRED YEKATOM AND PATRICE-ÉDOUARD
NGAISSONA***

Public

**Public Redacted Version of the “Closing Brief of the Common Legal
Representative of the Former Child Soldiers” (No. ICC-01/14-01/18-2735-Conf,
dated 15 November 2024)**

Source: Office of Public Counsel for Victims (CLR1)

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I. INTRODUCTION

1. The Common Legal Representative of the Former Child Soldiers (the “CLR1”) herewith submits his Closing Brief.

II. PROCEDURAL BACKGROUND

2. On 16 February 2021, the trial commenced pursuant to the order of Trial Chamber V (the “Chamber”).¹

3. On 2 February 2024, the Chamber invited the filing of closing briefs eight weeks after the declaration of the closure of the submission of evidence in accordance with rule 141(1) of the Rules of Procedure and Evidence (the “Rules”).² The Chamber ruled that the standard page limit of 120 pages should apply to the closing briefs of the Common Legal Representatives of Victims.³

4. On 18 September 2024, the Chamber declared the closure of the submission of evidence.⁴

5. On 22 October 2024, the Chamber amended the deadline to file closing briefs to 15 November 2024.⁵

6. On 6 November 2024, the Chamber granted all participants an extension of time until 22 November 2024 to file public redacted versions of their respective closing briefs.⁶

¹ See the “Order Rescheduling the Commencement Date of the Trial” (Trial Chamber V), [No. ICC-01/14-01/18-875](#), 8 February 2021.

² See the “Further Directions on the Conduct of the Proceedings (End of Defence Presentation of Evidence and Closure of Evidence)” (Trial Chamber V), [No. ICC-01/14-01/18-2342](#), 2 February 2024, para. 9.

³ *Idem*, para 11.

⁴ See the “Declaration on the Closure of the Submission of Evidence” (Trial Chamber V), [No. ICC-01/14-01/18-2697](#), 18 September 2024.

⁵ See the Email correspondence from Trial Chamber V dated 22 October 2024 at 15:12.

⁶ See the Email correspondence from Trial Chamber V dated 6 November 2024 at 12:37.

7. On 14 November 2024, the Chamber granted all participants an extension of time until 15 November 2024 at midnight to file their respective closing briefs.⁷

III. CLASSIFICATION

8. Pursuant to regulation 23*bis* (1), of the Regulations of the Court, the present submission is classified “confidential” since it contains information not yet made public. A public redacted version will be filed in due course.

IV. EVIDENTIARY STANDARD

9. Pursuant to article 66 of the Rome Statute (the “Statute”), the accused is entitled to the benefit of the doubt. If guilt has not been proved beyond reasonable doubt at the end of the trial pursuant to article 66(3), a conviction cannot be entered. Pursuant to article 74(2) of the Statute, the Chamber “*shall base its evaluation on the evidence and the entire proceedings*”. An item of evidence submitted at trial can influence the decision of the Chamber in two different ways: (a) the item may help reaching a conclusion about the existence or non-existence of a material fact; or (b) the item may help assessing the reliability of other evidence. When considering the evidence and the factual findings in the case, the Chamber should follow the established jurisprudence according to which:

- reasonable doubt must be based on logic and common sense, and have a rational link to the evidence, lack of evidence or inconsistencies in the evidence;⁸
- the “*beyond reasonable doubt*” standard cannot be contested invoking frivolous doubt based on empathy or prejudice;⁹

⁷ See the Email correspondence from Trial Chamber V dated 14 November 2024 at 18:40.

⁸ See the “Judgment on the Prosecutor’s appeal against the decision of Trial Chamber II entitled ‘Judgment pursuant to article 74 of the Statute’” (Appeals Chamber), [No. ICC-01/04-02/12-271-Corr. A](#), 7 April 2015 (the “*Ngudjolo* Appeal Judgment”), paras. 109 *et seq.*; and ICTR, *Rutaganda*, Case No. ICTR-96-3-A, [Appeal Judgement](#) (Appeals Chamber), 26 May 2003, para. 488.

⁹ See the *Ngudjolo* Appeal Judgment, *supra* note 8, para. 109.

- not each and every fact in the judgment must be proven beyond reasonable doubt but only those on which a conviction depends which include facts constituting the elements of the crime and the modes of liability as charged;¹⁰ or “*material facts*” as opposed to subsidiary or “*collateral facts*”¹¹ or other sets of facts introduced by different types of evidence;¹²
- the Chamber shall not take a piecemeal approach to the assessment of the evidence; but is rather required to carry out a holistic evaluation and weighing of all the evidence taken together in relation to the fact at issue;¹³
- inferences adverse to the accused can be entered so long as, based on the case record, they represent the only reasonable conclusion that could be drawn from the evidence;¹⁴
- the determination of whether an individual item of evidence is credible and reliable depends on the extent to which it is corroborated by other pieces of evidence taken cumulatively;¹⁵

¹⁰ See the “Judgment on the appeal of Mr Thomas Lubanga Dyilo against his conviction” (Appeals Chamber), [No. ICC-01/04-01/06-3121-Red A5](#), 1 December 2014 (the “*Lubanga Appeal Judgment*”), para. 22.

¹¹ See the “Judgment on the appeals of Mr Lubanga Dyilo and the Prosecutor against the Decision of Trial Chamber I of 14 July 2009 entitled ‘Decision giving notice to the parties and participants that the legal characterisation of the facts may be subject to change in accordance with Regulation 55(2) of the Regulations of the Court’” (Appeals Chamber), [No. ICC-01/04-01/06-2205 OA15 OA16](#), 8 December 2009, footnote 163. See also the “Judgment on the appeal of Mr Germain Katanga against the decision of Trial Chamber II of 21 November 2012 entitled ‘Decision on the implementation of regulation 55 of the Regulations of the Court and severing the charges against the accused persons’” (Appeals Chamber), [No. ICC-01/04-01/07-3363 OA13](#), 27 March 2013 (the “*Katanga Appeal Judgment*”), para. 50.

¹² See the *Ngudjolo Appeal Judgment*, *supra* note 8, para. 125; and the “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 decision of Trial Chamber VII entitled ‘Judgment pursuant to Article 74 of the Statute’” (Appeals Chamber), [No. ICC-01/05-01/13-2275-Red A A2 A3 A4 A5](#), 8 March 2018 (the “*Bemba Appeal Judgment*”), para. 868.

¹³ See the *Bemba Appeal Judgment*, *supra* note 12, paras. 598, 1195 and 1540. See also the *Lubanga Appeal Judgment*, *supra* note 10, para. 22.

¹⁴ See the *Bemba Appeal Judgment*, *supra* note 12, para. 868. See also the “Judgment on the appeal of the Prosecutor against the ‘Decision on the Prosecution’s Application for a Warrant of Arrest against Omar Hassan Ahmad Al Bashir’” (Appeals Chamber), [No. ICC-02/05-01/09-73 OA](#), 3 February 2010, para. 33.

¹⁵ See ICTY, *Limaj et al.*, Case No. IT-03-66-A, [Appeal Judgement](#) (Appeals Chamber), 27 September 2007, para. 153, citing *Limaj et al.*, Case No. IT-03-66-T, [Judgement](#) (Trial Chamber II), 30 November 2005, para. 20.

- trauma¹⁶ and passage of time¹⁷ are factors that must be taken into account before rejecting the evidence of any witness on the basis of his/her inability fully or adequately to recount all details of the relevant events;
- the Chamber may rely on part of a witness's testimony and reject other parts;¹⁸ and
- that evidence is contested by the Defence does not mean that reasonable doubt is casted. Rather, the Chamber has the responsibility to resolve any inconsistencies that may arise within and/or among witnesses' testimonies.¹⁹

8. Furthermore, Defence witnesses may "corroborate" each other in respect of the evidence they provide. In the *Bemba* case, for instance, *nine* Defence witnesses testified consistently that MLC troops in the Central African Republic (the "CAR") fell under the operational control of the Central African authorities;²⁰ a factual finding that in the submission of the BEMBA defence would have been exonerating. The Chamber rejected said finding addressing – on a factor-by-factor basis – the considerations that weighed against the credibility of the witnesses concerned.²¹ Accordingly, the

¹⁶ For witnesses who experienced great *trauma*, revisiting such painful experiences is likely to be a source of pain and may affect her or his ability fully or adequately to recount the relevant events in a judicial context. Accordingly, the evidence of such witnesses should not be rejected despite reticence or circuitousness in "*being specific as to dates, times, distances and locations, and appeared unfamiliar with the use of maps, films, photographs and other graphic representations*". See ICTR, *Musema*, Case No. ICTR-96-13, [Judgement and Sentence](#) (Trial Chamber I), 27 January 2000, paras. 100 and 104.

¹⁷ The passage of time may affect the witnesses' memories. In considering this evidence, the witness's "*relationship to the Accused, the age, vulnerability, any involvement in the events under consideration, the risk of self-incrimination, sincerity, possible bias toward or against the Accused and motives for telling the truth or giving false testimony*" must be taken into account. See the "Judgment pursuant to article 74 of the Statute" (Trial Chamber II), [No. ICC-01/04-01/07-3436-tENG](#), 7 March 2014 (the "*Katanga Judgment*"), paras. 83 and 85.

¹⁸ See the "Judgment pursuant to Article 74 of the Statute" (Trial Chamber I), [No. ICC-01/04-01/06-2842](#), 14 March 2012 (the "*Lubanga Judgment*"), para. 339; the *Katanga Judgment*, *supra* note 17, para. 84; and the "Judgment pursuant to Article 74 of the Statute" (Trial Chamber VII), [No. ICC-01/05-01/13-1989-Red](#), 19 October 2016, paras. 202 and 204. See also ICTY, *Haradinaj et al.*, Case No. IT-04-84, [Appeal Judgement](#) (Appeals Chamber), 19 July 2010, para. 201.

¹⁹ See the *Lubanga Appeal Judgment*, *supra* note 10, para. 23, citing ICTY, *Kupreškić et al.*, Case No. IT-95-16-A, [Appeal Judgement](#) (Appeals Chamber), 23 October 2001, para. 31.

²⁰ See the "Judgment pursuant to Article 74 of the Statute" (Trial Chamber III), [No. ICC-01/05-01/08-3343](#), 21 March 2016 (the "*Bemba Judgment*"), para. 430.

²¹ *Idem*, para. 447.

Chamber should be open to reject Defence evidence, even where various Defence witnesses corroborate each other, on the basis of considerations such as:

- the evidence is generally evasive, lacking spontaneity, qualified,²² defensive,²³ exaggerated²⁴ or implausible;²⁵ with responses being illogical, improbable, or contradictory;²⁶
- the witness's responses were contrary to the evidence presented to him, but without any satisfactory explanation for such discrepancy;²⁷
- the evidence is internally contradictory²⁸ or contradicted by other evidence in the case record;²⁹
- despite abundant public information about the crimes, the witness claims to have had no information;³⁰
- the witness claims not to have had information about issues which, actually fell squarely within his alleged area of competence and knowledge;³¹
- the witness' source of knowledge was unclear and questionable.³²

9. It is for the Chamber to determine whether the ultimate weight of all the evidence adduced is sufficient to establish beyond reasonable doubt the elements of the crimes charged and the responsibility of the accused.³³ In assessing witnesses' evidence, the Chamber needs to evaluate their credibility, the reliability of their testimonies and ultimately determine the weight to be afforded to their evidence.³⁴

²² *Idem*, para. 435.

²³ *Idem*, para. 352.

²⁴ *Idem*, para. 357.

²⁵ *Idem*, para. 359.

²⁶ *Idem*, para. 348.

²⁷ *Idem*, para. 438.

²⁸ *Idem*, para. 432.

²⁹ *Idem*, para. 366.

³⁰ *Idem*, para. 350.

³¹ *Idem*, para. 349.

³² *Idem*, paras. 430 and 441.

³³ See the *Bemba* Judgment, *supra* note 20, paras. 228-230; and the *Katanga* Judgment, *supra* note 17, para. 79. See also, e.g., ICTY, *Karadžić*, Case No. IT-95-5/18-T, [Judgement](#) (Trial Chamber), 24 March 2016, para. 10 (the "*Karadžić* Trial Judgment").

³⁴ See e.g., the *Lubanga* Appeal Judgment, *supra* note 10, para. 239. See also, ICTR, *Ndahimana*, Case No. ICTR-01-68-A, [Judgment](#) (Appeals Chamber), 16 December 2013, para. 45 (the "*Ndahimana* Appeal

10. The CLR1 recalls that the testimony of a single witness on a material fact does not, as a matter of law, require corroboration.³⁵ A Chamber may enter a conviction on the basis of a single witness, although such evidence must be assessed with the appropriate caution.³⁶ Insignificant discrepancies between the evidence of different witnesses or between the evidence of a particular witness in court and his or her prior statement(s) should not discredit such evidence.³⁷ A Chamber is also free to decide not to rely on some parts of a witness's account whilst accepting other aspects of his or her evidence.³⁸

V. CONTEXTUAL ELEMENTS OF WAR CRIMES

1. Applicable law

8. Article 8(1) of the Statute provides for the Court's jurisdiction in respect of war crimes in particular when committed as part of a plan or policy or as part of a large-scale commission of such crimes. For each of the crimes concerned, the following two requirements must be established: (i) the conduct took place in the context of and was associated with an armed conflict not of an international character; and (ii) the perpetrator was aware of the factual circumstances that established the existence of an armed conflict.³⁹

9. The war crimes charged in this case exclusively concern a non-international armed conflict.⁴⁰ The concept of armed conflict not of an international character means

Judgement"); and ICTR, *Ntawukulilyayo*, Case No. ICTR-05-82-A, [Judgment](#) (Appeals Chamber), 14 December 2011, para. 21 (the "*Ntawukulilyayo* Appeal Judgement").

³⁵ See the *Karadžić* Trial Judgment, *supra* note 33, para. 12. See also, ICTR, *Nyiramasuhuko* et al., Case No. ICTR-98-42-A, [Judgment](#) (Appeals Chamber), 14 December 2015, para. 2063 (the "*Nyiramasuhuko* Appeal Judgement"); and the *Kupreškić* Appeal Judgement, *supra* note 19, para. 33.

³⁶ See the *Haradinaj* Appeal Judgement, *supra* note 18, para. 145.

³⁷ See the *Karadžić* Trial Judgment, *supra* note 33, para. 12.

³⁸ See the *Bemba* Judgment, *supra* note 20, para. 231; the *Katanga* Judgment, *supra* note 17, para. 84. See also, ICTR, *Setako*, Case No. ICTR-04-81-A, [Judgment](#) (Appeals Chamber), 28 September 2011, para. 48; and the *Haradinaj* Appeal Judgement, *supra* note 18, para. 201.

³⁹ See the "Judgment" (Trial Chamber VI), [No. ICC-01/04-02/06-2359](#), 8 July 2019 (the "*Ntaganda* Judgment"), para. 698.

⁴⁰ See articles 8(2)(c)(i)-(ii), (iv) and 8(2)(e)(i), (iv), (v), (vi), (vii) and (xii) of the Statute.

protracted armed violence between governmental authorities and organized armed groups or between such groups within a State.⁴¹ To distinguish it from situations of lower intensity such as internal disturbances, there must be at least two organised armed groups involved and the armed violence must reach a certain intensity.⁴²

10. To constitute an *organised* armed group, the following characteristics are jointly determinative: (i) the existence of a command structure and headquarters; (ii) the military or operational capacity of the group that is able to define a unified military strategy, use military tactics and carry out large scale or coordinated operations; (iii) the logistical capacity, indicated by the existence of a supply chain for military equipment, as well as by the ability to move troops around and to recruit and train personnel; (iv) the existence of an internal disciplinary system; and (v) the ability to speak with one voice and the capacity of the leadership to act on behalf of its members in political negotiations and to conclude agreements, such as ceasefires or peace agreements.⁴³

11. As for the intensity of the conflict, the following characteristics are relevant: (i) the seriousness and frequency of attacks; (ii) the spread of clashes over territory; (iii) whether any ceasefire orders had been issued or ceasefires agreed to; (iv) the type and number of armed forces deployed; (v) the type of weapons used; (vi) whether the situation had attracted the attention of international organisations; (vii) whether those fighting considered themselves bound by international humanitarian law; and (viii) the effects of the violence on the civilian population, including the extent to

⁴¹ See the *Ntaganda* Judgment, *supra* note 39, para. 701, citing ICTY, *Tadić*, Case No. IT-94-1-A, [Decision on the defence motion for interlocutory appeal on jurisdiction](#) (Appeals Chamber), 2 October 1995, para. 70. See the Statute, article 8(2)(f); *compare* article 8(2)(d). See the *Bemba* Judgment, *supra* note 20, para. 128; the *Katanga* Judgment, *supra* note 17, para. 1173. See also ICRC, *Commentary on Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field* (Cambridge University Press 2016), para. 424.

⁴² See the *Ntaganda* Judgment, *supra* note 39, para. 703.

⁴³ *Idem*, para. 704.

which civilians left the relevant area, the extent of destruction and the number of persons killed.⁴⁴

12. Moreover, for the conduct to qualify as a war crime, it must have taken place “*in the context of*” and have been “*associated with an armed conflict not of an international character*”.⁴⁵ However, the perpetrator’s conduct needs to take place as part of hostilities, or at a time or place where fighting was actually taking place, but must have been closely linked to the hostilities.⁴⁶ The existence of an armed conflict must have, at a minimum, played a substantial part in the perpetrator’s ability or decision or purpose and manner to commit the crime.⁴⁷

13. In determining whether this *nexus* has been established, the following factors may be taken into account: (i) the status of the perpetrator and victim(s), and whether they had a role in the fighting; (ii) whether the act may be said to serve the ultimate goal of a military campaign; and (iii) whether the crime is committed as part of, or in the context of, the perpetrator’s official duties.⁴⁸ While the perpetrator does not need to make a legal evaluation of the nature of the existing armed conflict, they must have sufficient awareness of the factors demonstrating the existence of armed violence of a certain level of intensity between at least two organised entities.⁴⁹

14. Pursuant to the Elements of Crimes, war crimes in this case must have been committed in the context of and be associated with an armed conflict not of an international character. However, the perpetrator’s conduct need not take place as part of hostilities and the nexus requirement could still be satisfied for crimes temporally or geographically remote from the actual fighting.⁵⁰ Trial Chambers have determined

⁴⁴ *Idem*, para. 716.

⁴⁵ *Idem*, para. 731.

⁴⁶ *Ibid.*

⁴⁷ *Idem*, para. 732.

⁴⁸ *Ibid.*

⁴⁹ *Idem*, para. 733.

⁵⁰ See the “Trial Judgment” (Trial Chamber IX), [No. ICC-02/04-01/15-1762-Red](#), 4 February 2021 (the “Ongwen Judgment”), para. 2689; the “Judgment on the appeals of Mr Bosco Ntaganda and the Prosecutor against the decision of Trial Chamber VI of 8 July 2019 entitled ‘Judgment’” (Appeals

that what is required is a sufficiently close link to the hostilities, including, amongst others, the following factors: (i) the status of the perpetrator and the victim (*i.e.* whether they had a role in the fighting); (ii) whether the act may be said to serve the ultimate goal of a military campaign, and (iii) whether the crime is committed as part of, or in the context of, the perpetrator's official duties.⁵¹ As regards the mental element - the knowledge or awareness of the perpetrator - they must have been aware of factual circumstances that established the existence of an armed conflict.⁵²

2. Submissions on the evidence in the present case

a) *The existence and characterisation of the conflict*

15. The evidence demonstrates beyond reasonable doubt that, from at least September 2013 through December 2014, a protracted armed conflict not of an international character between the Anti-Balaka and the Seleka existed in Western CAR.⁵³ Both parties were well structured, armed and carried out protracted armed violence.⁵⁴ During this time, the Anti-Balaka was an organised armed group with a

Chamber), [No. ICC-01/04-02/06-2666-Red A A2](#), 30 March 2021 (the “*Ntaganda* Appeal Judgment”), paras. 1055, 1066; the *Ntaganda* Judgment, *supra* note 38, para. 731; the “Judgment and Sentence” (Trial Chamber VIII), [No. ICC-01/12-01/15-171](#), 27 September 2016 (the “*Al Mahdi* Judgment”), paras. 18, 49; the *Katanga* Judgment, *supra* note 16, para. 1176; the *Lubanga* Judgment, *supra* note 18, para. 571. See also ICTY, *Kunarac et al*, Case No. IT-96-23/1-A, [Judgement](#) (Appeal Chambers), 12 June 2002, para. 57.

⁵¹ See the *Ongwen* Judgment, *supra* note 50, para. 2689; the *Ntaganda* Appeal Judgment, *supra* note 50, paras. 890, 1166; the *Ntaganda* Judgment, *supra* note 39, para. 732; and the *Bemba* Judgment, *supra* note 20, para. 143.

⁵² Paragraph 3 of the Introduction to article 8 of the Elements of Crimes reads: “[w]ith respect to the last two elements listed for each crime: (a) There is no requirement for a legal evaluation by the perpetrator as to the existence of an armed conflict or its character as international or non-international; (b) In that context there is no requirement for awareness by the perpetrator of the facts that established the character of the conflict as international or non-international; (c) There is only a requirement for the awareness of the factual circumstances that established the existence of an armed conflict that is implicit in the terms ‘took place in the context of and was associated with’”.

⁵³ The knowledge of the conflict, the planning of attacks, the structure of the Anti-Balaka can also be inferred from intercepted radio communications. See **P-2625** : [T-188](#), p. 32, lines 5-9 and p. 35, lines 15-23 (Conf); [CAR-OTP-2055-1987](#), at 2241; **P-0975**: [CAR-OTP-2033-7885-R02](#), at 7890, paras. 32-33; [CAR-OTP-2055-1987](#), at 2241-2242; [CAR-OTP-2003-1592](#), at 1624, 1627-1628, 1648-1649, 1651; [CAR-OTP-2108-1285](#), from [00:00:23] to [00:02:17] and its transcript and translation [CAR-OTP-2127-4139](#), at 4140, lines 7-29, [CAR-OTP-2127-4181](#), at 4183, lines 8-33; [CAR-OTP-2107-1170](#), from [00:00:31] to [00:01:25] and its transcript and translation [CAR-OTP-2127-4533](#), [CAR-OTP-2127-4630](#), at 4632, lines 16-22.

⁵⁴ See [CAR-OTP-2055-1987](#), at 2242.

sufficient degree of organisation enabling it to plan and carry out military operations for a prolonged period of time.⁵⁵ This protracted armed violence, due to its intensity and its broad geographical scope, amounted to an armed conflict not of an international character.⁵⁶

16. Around August 2012, the Seleka emerged in north-eastern CAR. This alliance of several distinct militarized groups in the CAR, primarily a Muslim politico-military coalition opposed to François BOZIZÉ's ("BOZIZÉ") regime, formed for several reasons. [REDACTED].⁵⁷ [REDACTED].⁵⁸

17. On 27 December 2012, BOZIZÉ delivered a pivotal speech to his supporters at a rally at the *Place de la République* in BANGUI's PK0. In this speech, he derogatorily referred to Muslims as "*Janjaweed*"⁵⁹ and "*TORO BORO*".⁶⁰ He incited anti-Muslim sentiment by labelling the Seleka and their supporters as "*foreigners*", claiming "*il n'y a aucun Centrafricain parmi eux*"⁶¹ and "*ils ne parlent pas sango, ils ne parlent pas français*".⁶²

⁵⁵ See *infra*, para. 23 and P-2841: T-029, p. 19, lines 4-10 (Conf); CAR-OTP-2127-4238-R01, at 4250, para. 69.

⁵⁶ See *infra*, paras. 22-24.

⁵⁷ See P-2625: T-188, p. 15, line 19 to p. 17, line 8 (Conf); CAR-OTP-2123-0437, at 0438-0440, 0443.

⁵⁸ See P-1339: T-152, p. 71, lines 12-24 (Conf); CAR-OTP-2065-3696, and its transcript CAR-OTP-2107-1549, at 1550, lines 5-17.

⁵⁹ See CAR-OTP-2000-0630, from [00:02:30] to [00:12:30] and its transcript and translation CAR-OTP-2060-0623 and CAR-OTP-2060-0678, at 0682-0685, lines 89, 137, 156 and 199-200.

⁶⁰ See CAR-OTP-2000-0630, from [00:02:30] to [00:05:00] and its transcript and translation CAR-OTP-2060-0623 and CAR-OTP-2060-0678, at 0682, line 90. For the definition of [REDACTED], see CAR-OTP-2089-0143, at 0144.

⁶¹ See CAR-OTP-2000-0630, from [00:10:00] to [00:12:30] and its transcript and translation CAR-OTP-2060-0623 and CAR-OTP-2060-0678, at 0685, line 200.

⁶² See CAR-OTP-2000-0630, from [00:10:00] to [00:12:30] and its transcript and translation CAR-OTP-2060-0623 and CAR-OTP-2060-0678, at 0685, line 202.

18. BOZIZÉ's speech garnered widespread media attention and sparked discussions, fuelling a surge in anti-Muslim sentiment.⁶³ [REDACTED].⁶⁴ [REDACTED].⁶⁵ [REDACTED].⁶⁶

19. On 11 January 2013, BOZIZÉ signed the first Cease-fire Agreement with the Seleka in LIBREVILLE (the "2013 LIBREVILLE Agreement"). This agreement aimed to negotiate a power-sharing deal, which included provisions for redistributing certain government positions pursuant a decree.⁶⁷ In the subsequent weeks, BOZIZÉ persisted in depicting the Seleka as *foreigners* with intentions to harm genuine Central Africans.⁶⁸

⁶³ See [CAR-OTP-2101-0462](#), at 0462, 0465-0466.

⁶⁴ See **P-1143**: [CAR-OTP-2058-0227-R02](#), at 0230, paras. 19-22; **P-1847**: [T-022](#), p. 37, lines 1-20 (Conf); [CAR-OTP-2122-8251-R01](#), at 8270-8271, paras. 176-182; [CAR-OTP-2001-0172](#), at 0180, para. 34.

⁶⁵ See **P-1584**: [CAR-OTP-2056-0447-R01](#), at 0452-0454, paras. 31-43 ; **P-2625**: [T-188](#), p. 47, line 22 to p. 48, line 2 (Conf); [CAR-OTP-2000-0687](#), from [00:00:00] to [00:01:13] and its transcript [CAR-OTP-2107-1493](#), at 1494, lines 3-14; [CAR-OTP-2000-0686](#) and its transcript and translation [CAR-OTP-2130-1172](#) and [CAR-OTP-2130-1290](#); [CAR-OTP-2034-0270](#), at 0284-0285, 0294-0295, paras. 76-77, 120, 124; [CAR-OTP-2113-0664](#), at 0664-0665; [CAR-OTP-2088-1817](#), at 1818, column 3.

⁶⁶ See **P-2232**: [T-075](#), p. 12, line 6 to p. 14, line 8 (Conf); **P-0808**: [T-069](#), p. 84, lines 6-20 (Conf); [CAR-OTP-2025-0324-R03](#), at 0349, paras. 152-153; [CAR-OTP-2003-0019](#), at 0036-0039, *in particular* at 0037-0038; [CAR-OTP-2123-0437](#), at 0448. On the roadblocks see also **P-1847**: [T-022](#), p. 48, lines 4-9 and p. 58, line 3 to p. 61, line 7 (Conf); [CAR-OTP-2061-1534-R01](#), at 1574, para. 253; [CAR-OTP-2000-0668](#), from [00:00:00] to [00:06:05] and its transcript and translation [CAR-OTP-2087-9783](#) and [CAR-OTP-2087-9850](#); [CAR-OTP-2000-0677](#), from [00:00:00] to [00:03:05] and its transcript and translation [CAR-OTP-2006-0675](#) and [CAR-OTP-2006-0756](#); [CAR-OTP-2042-2125](#), from [00:16:38] to [00:22:34] and [00:32:30] to [00:33:55] and its transcript [CAR-OTP-2127-6888](#), at 6894, 6896-6897, lines 188-219 and 285-320; [CAR-OTP-2042-2137](#), from [00:12:50] to [00:14:40] and its transcript [CAR-OTP-2107-1481](#); [CAR-OTP-2000-0688](#), from [00:00:00] to [00:05:51] and its transcript and translation [CAR-OTP-2107-6884](#) and [CAR-OTP-2122-2243](#), at 2245-2246. The march of 10 January 2013 is mobilised by NGAISSONA: see [CAR-OTP-2042-0976](#), from [00:04:37] to [00:07:22] and its transcript [CAR-OTP-2107-1473](#); [CAR-OTP-2042-2144](#), from [00:07:25] to [00:09:24], and its transcript [CAR-OTP-2107-1483](#); [CAR-OTP-2042-2146](#), from [00:15:27] to [00:16:52] and its transcript [CAR-OTP-2107-1485](#); [CAR-OTP-2000-0687](#), from [00:00:00] to [00:01:13] and its transcript [CAR-OTP-2107-1493](#); [CAR-OTP-2042-0259](#), from [00:00:00] to [00:02:30], and its transcript and translation [CAR-OTP-2107-2991](#), [CAR-OTP-2118-5618](#); [CAR-OTP-2042-0262](#), from [00:00:00] to [00:04:19] and its transcript and translation [CAR-OTP-2118-0003](#) and [CAR-OTP-2125-0466](#); [CAR-OTP-2054-1448](#), from [00:00:00] to [00:01:26] and its transcript [CAR-OTP-2127-6696](#); [CAR-OTP-2008-2036](#), at 2036.

⁶⁷ See [CAR-OTP-2004-1530](#).

⁶⁸ See [CAR-OTP-2000-0627](#), from [00:20:20] to [00:22:46] and its transcript and translation, [CAR-OTP-2060-0618](#) and [CAR-OTP-2060-0668](#), at 0674, lines 194-218, *in particular* at 211-215; [CAR-OTP-2000-0635](#), from [00:00:00] to [00:05:20] and its transcript and translation [CAR-OTP-2060-0633](#) and [CAR-OTP-2060-0699](#), at 0701-0702, lines 1-53, *in particular* at lines 36-41 and 49-53.

20. Despite the 2013 LIBREVILLE Agreement and the formation of the Government of National Unity, BOZIZÉ failed to fulfil his commitments. As a result, the Seleka resumed their offensive and seized BANGUI in the coup on 24 March 2013.⁶⁹ [REDACTED].⁷⁰ For several months, Seleka forces inflicted brutal attacks and atrocities on civilians, primarily targeting non-Muslims in these areas.⁷¹

b) The existence of a common plan

21. [REDACTED].⁷² [REDACTED].⁷³ To this end, connections were established between members of the *Forces Armées Centrafricaines* (“FACA”) and the *Garde Présidentielle*, who remained loyal to BOZIZÉ, and pre-existing self-defence groups that had formed in various parts of the CAR. Their aim was to forcibly remove the incumbent Seleka regime and reinstate the former President.

22. NGAÏSSONA was fully aware that this fighting force, known by September 2013 as the Anti-Balaka, would violently target the Muslim civilian population in western CAR. This resulted in widespread attacks during the period from September 2013 through December 2014, including the major coordinated Anti-Balaka attacks on BANGUI on 5 December 2013 (the “5 December 2013 Attack”) and on BOSSANGO.

⁶⁹ See [CAR-OTP-2025-0372](#), at 0374; [CAR-OTP-2025-0396](#), at 0398; [CAR-OTP-2087-9110](#), at 9110-9111.

⁷⁰ See **P-0884**: [T-054](#), p. 27, lines 1-10 (Conf); [CAR-OTP-2072-1913-R01](#), at 1942-1943, lines 1034-1056; **P-2027**: [T-040](#), p. 42, line 4 to p. 43, line 7 (Conf); [CAR-OTP-2078-0059-R02](#), at 0063, para. 30; **P-0808**: [T-070](#), p. 12 lines 1-12; [CAR-OTP-2093-0010-R01](#), at 0016, para. 34.

⁷¹ Prior to the conflict (by the end of 2012), 15% of the population was Muslim, 25% Roman Catholic, 25% Protestant and 35% followed indigenous beliefs. See [CAR-OTP-2001-3319](#), at 3320; [CAR-OTP-2001-1767](#), at 1782, 1785-1786; [CAR-OTP-2001-1870](#), at 1913; [CAR-OTP-2001-0310](#), at 0310.

⁷² See **P-2625**: [T-188](#), p.70, lines 2-20 (Conf).

⁷³ See **P-2232**: [T-078](#), p. 31, lines 20-24 (Conf); and [T-076](#), p. 18, lines 12-23 (Conf); [CAR-OTP-2061-1534-R01](#), at 1540, 1546-1547, paras. 32-36, 84-87; **P-1847**: [T-023](#), p. 19, lines 15-20 (Conf); [CAR-OTP-2100-2569-R01](#), at 2572-2573, paras. 13-19; **P-0801**: [T-034](#), p. 8, line 7 to p. 10, line 21.

23. [REDACTED].⁷⁴ [REDACTED],⁷⁵ [REDACTED];⁷⁶ (ii) new recruits were registered and assigned to a company;⁷⁷ (iii) a command structure was established, with [REDACTED] as the coordinator of operations;⁷⁸ (iv) recruits received training from former FACA members;⁷⁹ and (v) were provided with fetishes known as *gris-gris*.⁸⁰ This movement became known as the “Anti-Balaka”.⁸¹

24. From September 2013 onwards,⁸² the Anti-Balaka launched attacks against the Seleka in and around BOSSANGO and BOUCA (OUHAM Prefecture),⁸³ BELOKO, BOHONG, and BOUAR (NANA-MAMBÉRÉ Prefecture),⁸⁴ as well as BOSSEMBÉLÉ and GAGA (OMBELLA-M’POKO Prefecture).⁸⁵ [REDACTED].⁸⁶ Hostilities between the Anti-Balaka and the Seleka culminated on 5 December 2013 with a coordinated attack on the capital, BANGUI, and later that same day on BOSSANGO. More than 1,500 Anti-Balaka members, including the group led by YEKATOM, attacked BANGUI

⁷⁴ See P-0966: [T-118](#), p. 57, line 18 to p. 58, line 1 (Conf); [CAR-OTP-2031-0241-R01](#), at 0245-0246, paras. 23-25, 28; [CAR-OTP-2001-2769](#), at 2825- 2827.

⁷⁵ See P-0966: [T-118](#), p. 57, lines 19-22 (Conf); [CAR-OTP-2031-0241-R01](#), at 0245-0246, paras. 23-25, 28; P-1521: [T-081](#), p. 10, line 21 to p. 11, line 16 (Conf); P-2232: [T-076](#), p. 3, lines 15-18 (Conf).

⁷⁶ According to P-0966, there were about 8 companies at the time; P-0966. See [T-116](#), p. 21, line 20 to p. 22, line 2 (Conf); [CAR-OTP-2031-0241-R01](#), at 0246, 0248, paras. 29, 39; P-1521: [T-081](#), p. 22, lines 13-19 and p. 32, line 22 to p. 33, line 11(Conf); P-0975: [CAR-OTP-2033-7885-R01](#), at 7889, para. 29.

⁷⁷ See P-0966: [T-119](#), p. 5, line 25 to p. 7, line 8; [CAR-OTP-2031-0241-R01](#), at 0247-0248, paras. 35-39.

⁷⁸ See P-0966: [T-116](#), p. 57, line 24 to p. 58, line 10; [CAR-OTP-2031-0241-R01](#), at 0247, paras. 33-34; P-0975: [CAR-OTP-2033-7885-R01](#), at 7889, para. 29; see also P-2232: [T-075](#), p. 42, lines 17-23 (Conf).

⁷⁹ See P-0975: [CAR-OTP-2033-7885-R01](#), at 7889, paras. 26-29.

⁸⁰ See P-0966: [T-117](#), p. 54, lines 12-22 (Conf); [CAR-OTP-2031-0241-R01](#), at 0246, para. 30; P-0975: [CAR-OTP-2033-7885-R01](#), at 7889, para. 27; P-0889: [T-109](#), p. 26, lines 15-20 (Conf); [CAR-OTP-2027-2290-R01](#), at 2294, para. 30, P-2841 : [T-029](#), p.71, lines 8-12 (Conf); [CAR-OTP-2127-4238-R01](#), at 4250, para. 68.

⁸¹ See P-0966: [T-116](#), p. 57, line 24 to p. 58, line 10 (Conf); [CAR-OTP-2031-0241-R01](#), at 0244, para. 22; P-0889: [T-108](#), p. 64, lines 12-24 (Conf); [CAR-OTP-2001-2564](#), at 2578; [CAR-OTP-2001-0835](#), at 0875, paras. 1-3.

⁸² See [CAR-OTP-2055-1987](#), at 2241-2242.

⁸³ See P-0966: [T-116](#), p. 48, line 25 to p. 49, line 20 (Conf); [CAR-OTP-2031-0241-R01](#), at 0248-0251, paras. 40-55; P-1521: [T-081](#), p. 13, line 17 to p. 14, line 5 (Conf); [CAR-OTP-2001-0835](#), at 0875, para. 1.

⁸⁴ See P-1847: [T-023](#), p. 64, line 17 to p.65, line 18 (Conf); [CAR-OTP-2107-0102-R01](#), at 0123-0124, paras. 136-142; [CAR-OTP-2055-1987](#), at 2242.

⁸⁵ See P-1521: [T-081](#), p. 13, line 17 to p. 14, line 5; [CAR-OTP-2001-0835](#), at 0875, para. 1; [CAR-OTP-2055-1987](#), at 2242.

⁸⁶ See P-1847: [T-023](#), p. 15, lines 6-20 (Conf); [CAR-OTP-2061-1534-R01](#) at 1540, 1546-1547, paras. 35, 84-87; P-1719: [T-144](#), p. 57, line 6 to p. 58, line 25 (Conf); [CAR-OTP-2062-0039-R02](#) at 0043, para. 28; P-1521: [T-081](#), p. 70, line 15 to p. 71, line 2 (Conf); and [T-082](#), p. 15, lines 3-6 (Conf); and [T-083](#), p. 23, lines 17-21 (Conf); P-0884: [T-056](#), p. 57, lines 17-21 (Conf).

from multiple directions in the early hours of 5 December 2013. The clashes resulted in an estimated hundreds of deaths, including civilians.

25. Alongside the principal aim of overthrowing the Seleka regime and expelling them from the CAR, the Anti-Balaka also pursued a criminal agenda of targeting the Muslim population in western CAR. This group was perceived as collectively responsible for the crimes allegedly committed by the Seleka, or as being complicit with or supportive of the Seleka, based on their religious or ethnic affiliation.⁸⁷ Starting in September 2013, the Muslim population was deliberately targeted by Anti-Balaka groups as a form of retributive violence throughout BANGUI, including the areas of BOEING and BIMBO, and across western CAR Prefectures. These attacks involved murder, deportation and forcible transfer of the population, imprisonment and other severe deprivations of physical liberty, torture, rape, persecution, and other inhumane acts. On 10 January 2014, DJOTODIA resigned and Seleka forces retreated to the north and northeast of the CAR.⁸⁸ Notwithstanding the Seleka's retreat, the hostilities between the Seleka and the Anti-Balaka did not subside at any time throughout the period relevant to the charges.⁸⁹

⁸⁷ 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. See **P-1847: T-022**, p. 43, line 20 to p. 44, line 5 (Conf); [CAR-OTP-2061-1534-R01](#), at 1573-1574, paras. 250-253; [CAR-OTP-2001-7017](#), at 7065-7066, paras. 157-164; [CAR-OTP-2001-0409](#), at 0410, para. 8; [CAR-OTP-2088-2034](#); [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. Such rhetoric was also expressed during meetings held in Cameroon between, in particular, François BOZIZE, Bernard MOKOM and NGAÏSSONA, as well as by NGAÏSSONA or on his behalf. See [CAR-OTP-2000-0680](#) [00:00:00 to 00:05:37]; [CAR-OTP-2087-9789](#); [CAR-OTP-2087-9863](#), at 9865, lines 2-15; [CAR-OTP-2042-0976](#) [00:04:37 to 00:07:22]; [CAR-OTP-2107-1473](#).

⁸⁸ See [CAR-OTP-2001-0409](#), at 0410-0411, paras. 8-9.

⁸⁹ See 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](#)). See also the several failed attempts to bring about the cessation of hostilities, including, the 16 June 2014 PARETO (NGO 'Paix, reconciliation et tolérance') mediation agreement mediation agreement. See [CAR-OTP-2001-5386](#), at 5445-5446; and the Brazzaville peace agreement, [CAR-OTP-2001-1057](#), at 1063, para. 32; [CAR-OTP-2001-3405](#); [CAR-OTP-2001-5013](#).

c) Anti-Balaka under YEKATOM's command as an armed group

26. At the beginning of 2014, a transitional government under interim President Catherine SAMBA-PANZA ("SAMBA-PANZA") took office.⁹⁰ To engage with this new government, the *de facto* Anti-Balaka structure was formalized in January 2014 with the creation of a National Coordination body. This body included positions such as a National General Coordinator held by [REDACTED]⁹¹ and a National Coordinator of Operations held by [REDACTED],⁹² among others. Commanders of Anti-Balaka groups were officially appointed as Zone Commanders - the so-called "*ComZones*" - to oversee specific areas and enforce discipline within their groups.⁹³

27. YEKATOM was one of these commanders. [REDACTED].⁹⁴ YEKATOM led an active Anti-Balaka group that grew to 3,000 members, initially based in CATTIN, BOEING, and BIMBO, and later in the LOBAYE Prefecture along the BANGUI-MBAÏKI axis.⁹⁵ YEKATOM - a former FACA caporal chef - amassed and commanded the group of 3,000 fighters (the "YEKATOM Group"). A senior and powerful Anti-Balaka zone commander, YEKATOM, trained, structured, and armed his elements.⁹⁶

⁹⁰ See [CAR-OTP-2001-0835](#), at 0866, para. 17.

⁹¹ See **P-2232**: [T-078](#), p. 58, lines 7-9 (Conf); **P-1847**: [T-024](#), p. 25, lines 9-15 (Conf); [CAR-OTP-2107-0102](#), at 0133, para. 199; **P-0889**: [T-109](#), p. 71, lines 5-11 (Conf); **P-0884**: [T-055](#), p. 44, lines 11-17 (Conf); **P-0808**: [T-070](#), p. 43, lines 5-9 (Conf); [CAR-OTP-2025-0324-R03](#), at 0336-0337, paras. 82, 87; [CAR-OTP-2101-4059](#), at 4059.

⁹² See **P-0808**: [T-070](#), p. 54, lines 7-25 (Conf); [CAR-OTP-2025-0324-R03](#), at 0336-0339, paras. 83-97; [CAR-OTP-2093-0010-R01](#), at 0030, para. 114; [CAR-OTP-2001-5739](#), at 5785; [CAR-OTP-2025-0380](#), at 0382, 0384, 0385; **P-0966**: [T-116](#), p. 58, lines 4-10 (Conf); [CAR-OTP-2031-0241-R01](#), at 0256-0257, paras. 89-90; **P-2232**: [T-075](#), p. 42, lines 10-21 (Conf); **P-0889**: [T-109](#), p. 68, lines 10-19 (Conf).

⁹³ See **P-0884**: [T-056](#), p. 71, lines 2-17 (Conf); **P-0966**: [T-118](#), p. 14, lines 11-21 (Conf); [CAR-OTP-2031-0241-R01](#), at 0254, paras. 72-73; **P-0889**: [T-109](#), p. 25, lines 18-23 (Conf); [CAR-OTP-2027-2290-R01](#), at 2301, para. 69; **P-0808**: [T-070](#), p. 42, line 17 to p. 43, line 4 (Conf).

⁹⁴ See **P-0487**: [T-203](#), p. 4, lines 14-19 (Conf); **P-1339**: [T-152](#), p. 80, line 15 to p. 81, line 3 (Conf).

⁹⁵ On the YEKATOM Group, see **P-1521**: [T-082](#), p. 37, lines 9-17 (Conf); **P-1339**: [T-159](#), p. 35, lines 1-17 (Conf); **P-0954**: [T-166](#), p. 22, lines 2-7 (Conf); [CAR-OTP-2048-0171-R01](#), at 0185, para. 80; [CAR-OTP-2055-2610](#) [00:07:15 to 00:08:12]; [CAR-OTP-2107-6906](#), at 6913-6914, 193-233. On the locations where the YEKATOM Group was present, see **P-1839**: [T-171](#), p. 61, lines 1-23 (Conf); **P-1647**: [T-194](#), p. 52, lines 2-24 (Conf); [CAR-OTP-2050-0654-R02](#), at 0660, para. 39; **P-1528**: [CAR-OTP-2048-0757-R02](#), at 0766, paras. 50-51; **P-0954**: [T-166](#), p. 49, lines 10-21 (Conf); [CAR-OTP-2048-0171-R01](#), at 0184-0185, para. 79; **P-0487**: [T-201](#), p. 59, lines 2-6 (Conf).

⁹⁶ See *infra*, paras. 249-253.

He prepared, planned, and led them in the crimes they committed as part of the Anti-Balaka's widespread attack against the Muslim civilian population of western CAR, pursuant to its Criminal Policy and Common Plan.⁹⁷ Members of the YEKATOM Group openly voiced an intention to '*slaughter*' the Muslim population.⁹⁸

28. YEKATOM organised his group in a military-like hierarchy,⁹⁹ comprised of subgroups led by his deputies [REDACTED], and subordinate commanders.¹⁰⁰ He exercised effective control over his forces, issuing orders and instructions either directly or through his deputies and commanders. His subordinates followed his directives, including those that involved committing crimes.¹⁰¹ YEKATOM presented himself as a powerful ComZone and was acknowledged as such by the Anti-Balaka leadership.¹⁰² His subordinates recognized his authority as the leader of the YEKATOM Group, and his status was also acknowledged by CAR authorities and the

⁹⁷ See *infra*, paras. 274-275.

⁹⁸ See *infra*, paras. 260-268.

⁹⁹ See **P-1339**: [T-155](#), p. 37, line 21 to p. 38, line 7 (Conf); **P-1786**: [T-197](#), p. 46, line 18 to p. 47, line 5 (Conf); [CAR-OTP-2058-0200-R01](#), at 0205, paras. 26-27; [CAR-OTP-2039-0063](#), at 0063-0066; [CAR-OTP-2039-0050](#), at 0050-0062; **P-2475**: [T-132](#), p. 58, lines 2-20 (Conf); [CAR-OTP-2065-3212](#) from [00:00:00] to [00:01:32], and its transcript and translation, [CAR-OTP-2127-3748](#) and [CAR-OTP-2127-3662](#), at 3664, l.3-30; [CAR-OTP-2065-3216](#) from [00:00:00] to [00:00:45] and its transcript and translation, [CAR-OTP-2127-3750](#) and [CAR-OTP-2127-3665](#), at 3667, lines 4-15; [CAR-OTP-2065-3180](#) from [00:00:31] to [00:01:45], and its transcript [CAR-OTP-2122-7503](#), at 7504, lines 17-32; [CAR-OTP-2065-3692](#) from [00:00:00] to [00:00:40] and its transcript and translation, [CAR-OTP-2122-9617](#) at 9618, l.3-8, and [CAR-OTP-2122-9676](#) at 9678, lines 3-8.

¹⁰⁰ See **P-1339**: [T-151](#), p. 41, lines 24 to p. 42, line 15 (Conf).

¹⁰¹ See *infra*, paras. 258-260, 268.

¹⁰² "ComZone" refers to a commander or leader of a group of Anti-Balaka elements responsible for a certain area and/or territory.

international community.¹⁰³ YEKATOM issued press releases and presented his group to the French press as early as 7 December 2013.¹⁰⁴

29. From at least December 2013, the YEKATOM Group enlisted, conscripted, and used child soldiers under 15 years of age in hostilities. YEKATOM and as many as 1,500 of his elements participated in the coordinated the 5 December 2013 Attack, committing crimes in its adjacent neighbourhoods. On that date, YEKATOM led his group - which included child soldiers - in attacking various Seleka positions and Muslim civilians. These attacks resulted in the deaths of many individuals and forced most of the Muslim residents of BANGUI and BOEING to flee.¹⁰⁵ In its aftermath, YEKATOM and his Group continued to commit crimes in BOEING and along the *point kilometre* ("PK") 9 – MBAIKI axis through 28 February 2014.

d) The mental element

30. As regards the knowledge or awareness of the perpetrator, the perpetrator must have been aware of factual circumstances that established the existence of an armed conflict.¹⁰⁶ The evidence demonstrates beyond reasonable doubt that, having held a

¹⁰³ See [CAR-OTP-2032-0059](#), at 0059; [CAR-OTP-2032-0074](#), at 0074; [CAR-OTP-2055-2610](#), from [00:02:12] to [00:02:57] and its transcript and translation [CAR-OTP-2107-6906](#), at 6910, lines 80-95, and [CAR-OTP-2122-2271](#), at 2276, lines 80-95; [CAR-OTP-2033-8065](#), at 8074; **P-0808: T-072**, p. 30, lines 12-19 (Conf); [CAR-OTP-2093-0010-R01](#), at 0028, paras. 101-102, [CAR-OTP-2025-0324-R03](#), at 0332-0333, para. 56; **P-0801: T-036**, p. 21, lines 7-15 (Conf); **P-0954: T-166**, p. 49, line 10 to p. 50, line 1 (Conf); [CAR-OTP-2048-0171-R03](#), at 0181-0182, para. 61; [CAR-OTP-2039-0020](#), at 0020; **P-1193: T-124**, p. 16, line 22 to p. 17, line 8 (Conf); [CAR-OTP-2045-0048-R02](#), at 0053, para. 33; [CAR-OTP-2005-0129](#), from [00:21:28] to [00:23:24] and its transcript and translation [CAR-OTP-2130-1184](#), at 1193-1194, lines 316-351, and [CAR-OTP-2130-1307](#), at 1319-1320, lines 384-428; **P-2419: CAR-OTP-2112-0036-R01**, at 0051, para. 87. On the recognition of YEKATOM's authority by the CAR authorities and the international community, see [CAR-OTP-0080-0840](#), at 0842; [CAR-OTP-0080-0821](#), at 0823; [CAR-OTP-2051-0743](#), at 0745; [CAR-OTP-2001-5739](#), at 5785; [CAR-OTP-2118-0415](#) from [53:50:00] to [01:00:07] and its transcript and translation, [CAR-OTP-2127-4357](#) and [CAR-OTP-2127-4410](#), 4432-4434, lines 760-850; [CAR-OTP-2065-3700](#), from [00:00:00] to [00:01:49] and its transcript and translation [CAR-OTP-2130-1087](#) and [CAR-OTP-2130-1143](#).

¹⁰⁴ See [CAR-OTP-2032-0074](#); [CAR-OTP-2032-0059](#); [CAR-OTP-2065-0396](#), from [00:00:00] to [00:01:40] and its transcript and translation [CAR-OTP-2107-6918](#), at 6919, lines 1-35, and [CAR-OTP-2107-7050](#), at 7052, lines 1-35.

¹⁰⁵ See *infra*, paras. 254, 258, 260-263, 266-272.

¹⁰⁶ See Paragraph 3 of the Introduction to article 8 of the Elements of Crimes reads: "[w]ith respect to the last two elements listed for each crime: (a) There is no requirement for a legal evaluation by the perpetrator as to the existence of an armed conflict or its character as international or non-international; (b) In that context there is no requirement for awareness by the perpetrator of the facts that established the character of the conflict as

number of command positions, YEKATOM was aware of the factual circumstances that established the existence of the non-international armed conflict.¹⁰⁷ Consequently, his conduct took place in the context of and was associated with the armed conflict not of an international character existing in Western CAR during the period covered by the charges.¹⁰⁸

31. As the incidents described below demonstrate, regarding the charged article 8(2)(e)(vii) of the Statute of enlisting, conscripting, and using child soldiers under 15 years of age in hostilities - YEKATOM was aware, *inter alia*, of the following factual circumstances: (i) the existence of an armed conflict; and (ii) that children under age 15 were enlisted and conscripted by the Anti-Balaka and in the YEKATOM Group and used in hostilities, or alternatively, these circumstances should have been known.

VI. MATERIAL ELEMENTS OF THE WAR CRIMES UNDER COUNT 29

1. Applicable law

32. Under article 8(2)(e)(vii) of the Statute, the recruitment of children under fifteen “into armed forces or groups” and their use in hostilities extends to any armed group within the meaning of international humanitarian law.¹⁰⁹ The crime has a permanent

international or non-international; (c) There is only a requirement for the awareness of the factual circumstances that established the existence of an armed conflict that is implicit in the terms ‘took place in the context of and was associated with’.

¹⁰⁷ See *supra* paras. 27-28, and *infra* paras. 274-276.

¹⁰⁸ *Ibid.*

¹⁰⁹ See article 8(2)(e)(vii) of the Elements of Crimes. Conscripting alone is sufficient and thus it is not required that a child under 15 years of age who has been conscripted also be used to participate actively in hostilities. Conscripting is a continuing crime meaning that its commission occurs for as long as the child remains part of or is associated with the armed group and until the child reaches 15 years of age. Conscripting means recruitment resulting in the incorporation of a person into an armed group by compulsion or coercion. The existence of such coercion or compulsion can be established by demonstrating that a child joined the armed group due to, *inter alia*, brute force, threat of force or psychological pressure amounting to coercion. Children under the age of 15 are generally unable to give genuine and informed consent when joining in an armed group. See the *Ntaganda* Judgment, *supra* note 39, paras. 1104-1107.

or continuous character which means that the offence continues to be committed as long as the child remains in the military group.¹¹⁰

33. For the purpose of the present closing brief, the CLR1 deems it necessary to analyse the notions covered under article 8(2)(e)(vii) of the Statute. He will therefore focus on the notion of enlistment and conscription of child soldiers in an armed group on the one hand, and on the use of child soldiers on the other hand, both on a legal and factual points of view.

a) The notion of enlistment and conscription of child soldiers

34. The CLR1 submits that, considering the forms of criminality set out in article 8(2)(e)(vii) of the Statute, enlistment is a “base crime” of which conscription is a special form. The use of children under the age of 15 to actively participate in hostilities, although related, is a separate form of criminality. The CLR1 represents victims falling under each category and it is of particular interest for each set of victims that the conviction and the sentence reflect the crimes separately.

35. During the initial steps of the drafting history of the Statute, only the use of children to participate in hostilities or for military related labour was criminalised.¹¹¹ The concept of ‘recruitment’ appeared at a later stage.¹¹² In the context of negotiations involving several options¹¹³ delegates decided to forbid “*recruiting children under the age of fifteen years into armed forces or using them to participate actively in hostilities*”.¹¹⁴ It

¹¹⁰ See the *Ntaganda* Judgment, *supra* note 39, para. 1104.

¹¹¹ See the [Informal paper on war crimes](#), points B(t) for an international armed conflict and D(e) for an armed conflict not of an international character, 14 July 1997.

¹¹² See e.g. [UN Doc. A/AC.249/1997/WG.1/CRP.2](#), 20 February 1997, p. 7 point B.(s) and [UN doc. A/AC.249/1997/L.5](#), 12 March 1997, p. 13 (2)(p).

¹¹³ See the *Report of the Preparatory Committee on the Establishment of an International Criminal Court*, UN Doc. [A/CONF.183/2/Add.1](#), 14 April 1998, pp. 21 and 23.

¹¹⁴ See e.g. the interventions of Belgium, Switzerland, Bahrain, Turkey in different plenary meetings of the Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, Rome, 15 June - 17 July 1998, Official Records, Volume II, [UN Doc. A/CONF.183/13 \(Vol. II\)](#), respectively p. 162, para. 8; p. 165, para. 58; p. 161, para. 70 and p. 166, para. 70. See also *idem*,

was only at the very end of the negotiation process that the terms ‘conscripting and enlisting’ were preferred over ‘recruitment’.¹¹⁵ Similar provisions in other international instruments also refer to ‘recruitment’ and ‘participation in hostilities’ as separate concepts.¹¹⁶ The sequential incorporation of ‘use’, ‘recruitment’ and later ‘enlistment and conscription’ in the negotiations leading to the adoption of the Statute provides moderate support for the proposition that, since their inception, they were conceived as different concepts. The distinctions made in other international instruments also support this conclusion. However, from these precedents, it cannot be discerned whether ‘conscripting’, ‘enlistment’ and ‘use’ in article 8(2)(e)(vii) constitute “*different crimes*” as opposed to “*different proscribed conducts of one crime*”.

36. In the *Lubanga* case, Trial Chamber I decided that conscription, enlistment, and use are three separate alternative offences.¹¹⁷ This interpretation was not challenged on appeal. Therefore, the Appeals Chamber was explicit that it was not going to consider whether they are separate crimes or different proscribed conducts of one crime; the matter was left open for future assessment.¹¹⁸

p. 165, para. 46; p. 163, para. 18; p. 166, para. 69; p. 163, para. 24; paras. 61 and 67, p. 160; para. 73, p. 161; and para. 85, p. 167.

¹¹⁵ In this sense, see COTTIER (M.) & GRIGNON (J.), “War Crimes”, in TRIFFTERER (O.) (ed.), *Commentary on the Rome Statute of the International Criminal Court, Observers’ Notes, Article by Article*, C.H. Beck, Hart, Nomos, München, Oxford, Baden-Baden, 3rd Edition, 2016, pp. 520-523. See also von HEBEL (H.) & ROBINSON (D.), “Crimes within the Jurisdiction of the Court”, in LEE (R. S.) (ed.), *The International Criminal Court: Element of Crimes and Rules of Procedure and Evidence*, Transnational Publishers, Inc. New York, 2001, p. 118.

¹¹⁶ See e.g. [Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts](#) (Protocol I), 8 June 1977, article 77 (2) ; [Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts](#) (Protocol II), 8 June 1977, article 4 (3) (c). This notwithstanding, the ICRC commentary separates between “*conscripting*”, “*enlistment*”, or “*use*” of child soldiers. See [ICRC Commentary to Article 4\(3\)\(c\) of the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts \(Protocol II\), 8 June 1977](#), para. 4557. Similar language is reflected in article 38 of the [Convention on the Rights of the Child](#).

¹¹⁷ See the *Lubanga* Judgment, *supra* note 18, para. 609. In substance however, the Chamber reasoned a separation between ‘enlistment and conscription’ and ‘use’ to reject the interpretation that enlistment required a specific purpose: *i.e.* that the child later participates actively in hostilities. See also the *Katanga* Judgment, *supra* note 17, paras. 1040-1041.

¹¹⁸ See the *Lubanga* Appeal Judgment, *supra* note 10, paras. 37-38.

37. In a partially dissenting opinion issued at the appeals stage, Judge Sang-Hyun SONG considered that the Statute contains three separate *conducts* of one offence and that accordingly the Trial Chamber should have entered one only conviction and one only sentence, instead of three.¹¹⁹ He underlined that article 8(2)(e)(vii) lists the prohibited conducts in one and the same paragraph separated by the conjunction ‘or’: conscripting or enlisting or using. The dissenting opinion stressed that, when instead of different conducts of one crime distinct crimes are set out in one paragraph, these crimes are separated by the conjunction ‘and’¹²⁰ as for instance in “*articles 8(2)(b)(xxii) and 8(2)(e)(vi) of the Statute [where the terminology used is] ‘[c]ommitting rape, sexual slavery, enforced prostitution, forced pregnancy [...], enforced sterilization, and any other form of sexual violence’*”.¹²¹

38. Whilst article 8(2)(e)(vi) was correctly quoted in the sense that it does use the conjunction ‘and’; article 8(2)(b)(xxii) actually uses for the same crimes the conjunction ‘or’.¹²² The different linguistic versions of the Statute do not coincide; ‘or’/‘and’ have been used erratically.¹²³ It follows that the use of the conjunction ‘or’ in article 8(2)(e)(vii) cannot support the interpretation that it refers to one only crime. In fact, it cannot support any of the competing interpretations.

39. Judge Sang-Hyun SONG partly dissenting opinion also relied on the ‘Explanatory Note’ to the Elements of Crimes to support that article 8(2)(e)(vii) would

¹¹⁹ See the “Partly dissenting opinion of Judge Sang-Hyun Song”, [No. ICC-01/04-01/06-3121-Anx1 A5](#), 1 December 2014, paras. 1-10.

¹²⁰ *Idem*, para. 4.

¹²¹ *Ibid.*

¹²² Indeed, the provision states: “*Committing rape, sexual slavery, enforced prostitution, forced pregnancy, as defined in article 7, paragraph 2 (f), enforced sterilization, or any other form of sexual violence also constituting a grave breach of the Geneva Conventions*” (emphasis added). The same applies for the relatively similar provision in article 7(g).

¹²³ The CLR1 notes that the French and the Spanish versions of article 8(2)(e)(vii) of the Statute do not use the conjunction ‘and’ as in English but the conjunction ‘or’ (‘*ou*’ and ‘*o*’, respectively). The Spanish version of article 8(2)(b)(xxii) does not use the conjunction ‘or’ as in English and French but the conjunction ‘and’ (‘*y*’).

list one only crime.¹²⁴ The Note sets out that where one paragraph of the Statute lists multiple crimes, the elements appear in separate paragraphs “to facilitate the identification of the respective elements”. Accordingly, if the Elements of Crimes separate the paragraphs, each paragraph reflects one crime. But the reverse is not true: if the respective elements can be straightforwardly identified there should be no need to separate them in different paragraphs. Hence, lack of separation does not indicate the criminalisation of one only crime.¹²⁵

40. In the submission of the CLR1, and as confirmed by the Appeals Chamber, the ‘Blockburger test’ is the appropriate standard to determine whether conscription, enlistment and use of children allow separate convictions and sentences. Accordingly, a person can be convicted for more than one crime if each statutory provision involved has a materially distinct element not contained in the other. An element is materially distinct from another if it requires proof of a fact not required by the other.¹²⁶ Where this test is not met, the Chamber must decide on the basis of the principle that the conviction under the more specific provision should be upheld.¹²⁷

41. Clearly, ‘use’ is distinct from ‘enlistment or conscription’ in that children under the age of 15 may be used to participate in hostilities whether or not they had been recruited. Conversely, all elements contained in ‘enlistment’ are required for ‘conscription’. Conscription requires an additional element. It follows that, technically, in relation to victims who joined forcibly the more specific provision to be applied is the one criminalising conscription. In other words, the Accused should not be

¹²⁴ See the “Partly dissenting opinion of Judge Sang-Hyun Song”, *supra* note 119, para. 5. The Explanatory Note sets out: “The structure of the elements of the crimes of genocide, crimes against humanity and war crimes follows the structure of the corresponding provisions of articles 6, 7 and 8 of the Rome Statute. Some paragraphs of those articles of the Rome Statute list multiple crimes. In those instances, the elements of crimes appear in separate paragraphs which correspond to each of those crimes to facilitate the identification of the respective elements”.

¹²⁵ In this sense, see the “Prosecution’s Request for a Ruling on Jurisdiction under Article 19(3) of the Statute” (President of the Pre-Trial Division), [No. ICC-RoC46\(3\)-01/18-1](#), 9 April 2018, paras. 18 *et seq.*

¹²⁶ In this sense, see WASCHFORT (G.), *International Law and Child Soldiers (Studies in International Law)*, Hart Publishing, Oxford, 2015, 1st edition, pp. 125-126.

¹²⁷ See the *Bemba* Appeal Judgment, *supra* note 12, para. 750 referring to ICTY, *Delalić et al.* (Čelebići case), Case No. IT-96-21-A, [Appeal Judgement](#) (Appeals Chamber), 20 February 2001, paras. 409, and 412-413.

convicted for the enlistment and the conscription of one and the same victim. However, in the submission of the CLR1, if proven that some victims have been conscripted and other victims enlisted separate convictions and sentences are still apposite.

42. Neither article 8(2)(e)(vii) nor the Elements of Crimes contain a definition of ‘enlistment’ and ‘conscription’. In the jurisprudence of the Court, ‘enlistment’ has been defined as “*to enrol on the list of a military body*” or “*military service*” and ‘conscription’ as “*to enlist compulsorily*”. The distinguishing element between the two crimes is that conscription has an “*added element of compulsion*”.¹²⁸

43. The Court has developed voluminous jurisprudence dealing with the interpretation of ‘enlistment’ and ‘conscription’ of children under the age of 15 in an armed force or group, as a war crime. In interpreting said provision, the Chamber should consider that:

- enlistment and conscription are both forms of recruitment;¹²⁹
- conscription is the compulsory enlistment of persons into military service;¹³⁰
- compulsion must be determined on a case-by-case basis, taking into account whether the force, threat of force or psychological pressure applied were of such a degree and so pervasive, that individuals can be said to have been forced to join the armed force or group.¹³¹ In this regard:
 - a demonstration that an individual joined the armed group due to, *inter alia*, a legal obligation, brute force, threat of force, or

¹²⁸ See the *Lubanga* Judgment, *supra* note 18, paras. 607-608, referring to *Oxford Dictionary*, p. 491. See also COTTIER (M.) & GRIGNON (J.), *op. cit.*, *supra* note 115, p. 524 and DÖRMANN (K.), *Elements of War Crimes under the Rome Statute of the International Criminal Court, Sources and Commentary*, ICRC and Cambridge University Press, 2003, p. 377. Finally, see the *Lubanga* Appeal Judgment, *supra* note 10, para. 277 defining conscription as “*compulsory enlistment of persons into military service*”.

¹²⁹ See the *Lubanga* Judgment, *supra* note 18, para. 607.

¹³⁰ See the *Lubanga* Appeal Judgment, *supra* note 10, para. 277.

¹³¹ *Idem*, para. 282.

psychological pressure amounting to coercion may show compulsion;¹³²

- compulsion does not require that an individual entered into an armed group against his/her will – conscription can be made out through a *legal obligation* to serve, the fact that the child *wanted* to join the army is irrelevant;¹³³
- appeals and encouragement to enlist in an armed force are regular features of recruitment campaigns in countries that have voluntary military forces, even more so during on-going armed conflicts, and recruitment campaigns of this nature do not necessarily amount to coercion. However, depending on the specific circumstances of the case, mobilisation campaigns may show compulsion;¹³⁴
- lack of food or loss of parents and the general living conditions of a population are *per se not sufficient* to establish the degree of compulsion required to for the crime of conscription;¹³⁵
 - there is no requirement to demonstrate lack of consent;¹³⁶
 - a child's consent is not a valid defence, children lack the capacity and ability to give informed or genuine consent;¹³⁷ and
 - these crimes are continuous in nature.¹³⁸

44. Moreover, as noted, the status of a child under 15 who has been enlisted or conscripted is not dependent on the fact that he or she may have been used to participate actively in hostilities. Although it may often be the case, their subsequent

¹³² *Idem*, para. 278.

¹³³ *Idem*, para. 301.

¹³⁴ *Idem*, paras. 285-286.

¹³⁵ *Ibid.*

¹³⁶ *Idem*, paras. 301-303.

¹³⁷ *Idem*, para. 300. See also the *Lubanga* Judgment, *supra* note 18, para. 617.

¹³⁸ See the *Lubanga* Judgment, *supra* note 18, paras. 618 and 759, citing the "Decision on the Confirmation of Charges" (Pre-Trial Chamber I), [No. ICC-01/04-01/06-803-tEN](#), 29 January 2007, para. 248 and ICTR, *Nahimana et al.*, Case No. ICTR-99-52-A, [Appeal Judgement](#) (Appeals Chamber), 28 November 2007, para. 721.

potential participation in hostilities is not a requirement to demonstrate the commission of the crime of enlistment or conscription.¹³⁹

45. The provision of ‘military training’ is clearly inessential for purposes of the legal characterisation of the facts as enlistment or conscription. Indeed, whether the military training was provided by the Anti-Balaka, another militia, or was never provided, has no bearing on the criminalisation of the recruitment of children in armed groups. Even if accepted *arguendo* that recruitment is connected to the later use of the children to actively participate in hostilities, such an interpretation would not render the military training determinative of the question of recruitment. As set out in further details *infra*, active participation in hostilities include a series of non-combat activities¹⁴⁰ for which military training is unnecessary.

46. Concerning the issue of ‘compulsion’, the CLR1 admits that “*recruitment does not necessarily involve the conscription of children by force, given the many alternative, non-forceful ways of persuading children to join the military ‘voluntarily’ that were available. Similar pressure could be applied to their families*”.¹⁴¹

47. The CLR1 also accepts that lack of food or loss of parents and the general living conditions of a population are *per se not sufficient* to establish the degree of compulsion required for the crime of conscription.¹⁴² However, when these circumstances are not viewed in isolation but rather combined with other factors, a voluntary incorporation into the armed group of a child below 15 can no longer be conceived. As articulated by the UN Special Representative on Children and Armed Conflict in its *amicus curiae* brief in the *Lubanga* case, joining an army in the DRC may be a step taken in “*a desperate*

¹³⁹ See the *Lubanga* Judgment, *supra* note 18, para. 609: “[I]f Article 8(2)(e)(vii) is taken on its own, the position is potentially ambiguous, given it reads ‘[c]onscripting or enlisting children under the age of fifteen years into armed forces or groups **or using** them to participate actively in hostilities’” (emphasis added). However, the *Elements of Crimes* clarify the issue by requiring ‘1. The perpetrator **conscripted or enlisted one or more persons** into an armed force or group **or used one or more persons to participate actively in hostilities**’ (emphasis added)” (emphasis original). See also the *Katanga* Judgment, *supra* note 17, paras. 1040-1041.

¹⁴⁰ See *infra* paras. 49-54.

¹⁴¹ See the *Lubanga* Judgment, *supra* note 18, para. 784.

¹⁴² See *supra* para. 42 and note 135.

attempt to survive". Children are confronted with limited options in the context of poverty, or driven by ethnic rivalry and ideological motivations, if not encouraged by their own family members.¹⁴³

48. The circumstances of the present case had a serious impact on any decision by child soldiers to join the Anti-Balaka or on a parent's decision to surrender their children to the militia. The CLR1 respectfully requests the Chamber to take these observations into account when analysing the facts *infra*. The Chamber may decide to deal with the facts relevant to the crimes of conscription and enlistment together.¹⁴⁴ Article 74(5) imposes no limitation in this respect. Whereas the judgment must contain a full and reasoned statement of the Chamber's findings on the evidence and conclusions, it is entirely left to its discretion how to present the relevant findings. Admittedly, witnesses and documents have mostly addressed these crimes jointly. Hence, although separating the crimes may enhance the Appeals Chamber's ability to review the judgment,¹⁴⁵ if need be, this might also lead to unnecessary repetitions or artificial expunctions. In any event, analysing the evidence of conscription and enlistment together would reveal no error.¹⁴⁶

b) The use of child soldiers to participate actively in hostilities

49. The codification of the crime aims at protecting children under 15 years as a particularly vulnerable group, from the inherent risks arising out of armed conflicts. Thus in principle, all direct or indirect activities which expose the children to the "*armed conflict risks*" should be covered by the active participation requirement.¹⁴⁷

¹⁴³ See the "Annex A of Submission of the Observations of the Special Representative of the Secretary General of the United Nations for Children and Armed Conflict pursuant to Rule 103 of the Rules of Procedure and Evidence", [No. ICC-01/04-01/06-1229-AnxA](#), 18 March 2008, paras. 13-14.

¹⁴⁴ See the *Lubanga* Judgment, *supra* note 18, para. 618.

¹⁴⁵ See the *Lubanga* Appeal Judgment, *supra* note 10, para. 313.

¹⁴⁶ *Idem*, paras. 311-312.

¹⁴⁷ See the *Lubanga* Judgement, *supra* note 18, para. 628: "*All of these activities, which cover either direct or indirect participation, have an underlying common feature: the child concerned is, at the very least, a potential target. The decisive factor, therefore, in deciding if an "indirect" role is to be treated as active participation in*

Accordingly, the practice of the Court has recognised the following acts as constituting use of children in hostilities: taking direct part in attacks, carrying equipment and belongings for superiors - including weapons, collecting firewood for the troops, collecting and disposing dead bodies, collecting and carrying pillaged goods, watching over other abductees, protecting camp sites, and being used as escorts.¹⁴⁸

50. The recent jurisprudence has also recognised the perpetration of sexual and gender-based crimes, namely rape and sexual slavery committed against child soldiers by members of the recruiting group. In this regard, the Appeals Chamber confirmed that engaging in sexual violence can never be justified, irrespective of whether or not the person may be liable to be targeted and killed under international humanitarian law.¹⁴⁹

51. Neither article 8(2)(e)(vii) of the Statute nor the Elements of Crimes provide for a definition of the use of children under the age of 15 to actively participate in hostilities. In interpreting said provision, reference should be given to the Appeals Chamber:

hostilities is whether the support provided by the child to the combatants exposed him or her to real danger as a potential target”.

¹⁴⁸ The term using children under the age of 15 “to participate actively in hostilities” imports a wide interpretation to the activities and roles played by such children. In assessing whether an activity or role qualifies as “active participation in hostilities”, it is necessary to analyse the link between the activity and any combat in which the armed group of the accused is engaged, rather than the risk posed to the child as a potential target in hostilities. The requisite proximity between the child’s activities and the hostilities exists in case of, *inter alia*, gathering information, transmitting orders, transporting ammunition and foodstuff and acts of sabotage. In addition, using children under the age of 15 as personal escorts and sending them on reconnaissance missions also constitute the forms of active participation in hostilities. In case of deployment of children under the age of 15 as soldiers and their participation in combat as well as their use as military guards and bodyguards clearly constitute the act of using them to participate actively in hostilities within the definition of article 8(2)(e)(vii). See the *Ntaganda* Judgment, *supra* note 39, paras. 1104, 1108 and 1109; and the *Lubanga* Judgment, *supra* note 18, para. 853.

¹⁴⁹ See the “Judgment on the appeal of Mr Ntaganda against the ‘Second decision on the Defence’s challenge to the jurisdiction of the Court in respect of Counts 6 and 9’” (Appeals Chamber), [No. ICC-01/04-02/06-1962 OA5](#), 15 June 2017, para. 2.

- article 8(2)(e)(vii) seeks to protect individuals under the age of 15 years from being used to 'participate actively in armed hostilities' and the concomitant risks to their lives and well-being;¹⁵⁰
- the purpose of article 8(2)(e)(vii) is different from that of Common article 3 of the Geneva Conventions, which establishes, *inter alia*, under which conditions an individual loses protection as a civilian because he/she takes direct part in hostilities;¹⁵¹
- it follows that the interchangeable use in Common article 3 of the Geneva Conventions of the terms 'active' and 'direct' participation does not limit or inform the interpretation of the terms 'participate actively in hostilities' in article 8(2)(e)(vii);¹⁵² and
- accordingly, the provisions of international humanitarian law do not establish that the phrase "*participate actively in armed hostilities*" should be interpreted so as to only refer to forms of direct participation in armed hostilities, as understood in the context of the principle of distinction and Common Article 3 of the Geneva Conventions.¹⁵³

52. Therefore, article 8(2)(e)(vii) not only refers to combatant children but also non-combatant children as possible victims of the crime.¹⁵⁴ In determining which actions fall as "*active participation*" without engaging direct participation in hostilities, the Chamber should consider the preparatory works of the Statute and, in particular, the 'Zutphen Draft, according to which:

¹⁵⁰ See the *Lubanga* Appeal Judgment, *supra* note 10, para. 324.

¹⁵¹ *Ibid.*

¹⁵² *Idem*, paras. 323-324 and 326-327.

¹⁵³ *Idem*, para. 328.

¹⁵⁴ According to the UN DDR policy, the roles of combatants and non-combatants are blurred as children, in particular girls, perform numerous combat support and non-combat roles that are essential to the functioning of the armed force or group. See the [Operational Guide to the Integrated Disarmament, Demobilization and Reintegration Standards](#), 1 August 2006, p. 230.

- A child is not actively participating in hostilities if the activity in question was “*clearly unrelated to hostilities*”. Examples of activity clearly unrelated to hostilities include:
 - food deliveries to an airbase; and
 - the use of domestic staff in an officer’s married accommodation.
- The terms “*participate actively in hostilities*” is to be understood as prohibiting a broader range of participation than “*direct*” participation in hostilities. Examples of active participation in hostilities include:
 - scouting, spying, sabotage and the use of children as decoys, couriers or at military checkpoints; and
 - use of children in a direct support function such as acting as bearers to take supplies to the front line, or activities at the front line itself.¹⁵⁵

53. In light of the facts addressed *infra*,¹⁵⁶ the requests the following examples already subsumed in the jurisprudence of the Court and of the SCSL, should be taken into account as constitutive of using children under the age of 15 to actively participate in hostilities:

- participation in combat;¹⁵⁷
- safeguarding the physical safety of military commanders¹⁵⁸ or acting as bodyguards and escorts¹⁵⁹ and guarding military objectives,¹⁶⁰ including where these activities are conducted in an active conflict-zone;¹⁶¹

¹⁵⁵ See the *Report of the Preparatory Committee on the Establishment of an International Criminal Court*, [UN Doc. A/CONF.183/2/Add.1](#), 14 April 1998, p. 21, footnote 12.

¹⁵⁶ See *infra* paras. 80-114.

¹⁵⁷ See the *Lubanga* Appeal Judgment, *supra* note 10, paras. 336 and 340.

¹⁵⁸ See the “Decision on the Confirmation of Charges”, *supra* note 138, para. 263.

¹⁵⁹ See the *Lubanga* Judgment, *supra* note 18, paras. 839-857 and 915. See also the SCSL, *Charles Ghankay Taylor*, Case No. SCSL-03-01-T, [Judgement](#) (Trial Chamber II), 18 May 2012, paras. 1483-1486, and 1526 (the “*Taylor* Judgement”).

¹⁶⁰ See the “Decision on the Confirmation of Charges”, *supra* note 138, para. 263.

¹⁶¹ See the *Lubanga* Judgment, *supra* note 18, para. 915 and the *Lubanga* Appeal Judgment, *supra* note 10, para. 337.

- parading and guarding a camp and a jail;¹⁶²
- transporting and receiving weapons and ammunitions;¹⁶³
- carting loads for the fighting faction, finding and/or acquiring food, ammunition or equipment, acting as decoys, carrying messages, making trails or finding routes, manning checkpoints or acting as human shields;¹⁶⁴
- spying;¹⁶⁵
- removal and carrying away of looted goods;¹⁶⁶ and
- committing crimes.¹⁶⁷
- Moreover, domestic chores were performed in addition to other military tasks.¹⁶⁸

54. Before proceeding to analysing the facts, the CLR1 recalls that the *Lubanga* Trial Chamber developed a criterion to ascertain whether an “*indirect*” role is to be treated as “*active participation*” in hostilities. Accordingly, the key factor, referred to as “*potential target*”, is whether the support provided by the children to the combatants exposed them to real danger as a potential target.¹⁶⁹ This jurisprudence was overturned

¹⁶² See the *Katanga* Judgment, *supra* note 17, para. 1073. See also the SCSL, *Sesay, Kallon and Gbao*, Case No. SCSL-04-15-T, [Judgement](#) (Trial Chamber I), 2 March 2009, paras. 1717-1718 (the “RUF Judgement”).

¹⁶³ See the RUF Judgement, *supra* note 162, paras. 1081-1082. See also SCSL, *Brima, Kamara and Kanu*, Case No. SCSL-2004-16-T, [Judgement](#) (Trial Chamber II), 20 June 2007 (the “AFRC Judgement”), paras. 1524, 1565 and 1592.

¹⁶⁴ See the AFRC Judgement, *supra* note 163, para. 737.

¹⁶⁵ See the RUF Judgement, *supra* note 162, para. 1729.

¹⁶⁶ See the *Taylor* Judgement, *supra* note 159, para. 1546.

¹⁶⁷ *Idem*, paras. 1488-1490, 1502-1505, 1512, 1516, 1526, 1528, 1565, 1575 and 1592.

¹⁶⁸ See the *Lubanga* Appeal Judgment, *supra* note 10, para. 340. The submission is not that domestic work taken in isolation qualifies as active participation in hostilities. But rather that this consideration should be taken into account together with other tasks carried out as UPC/FPLC soldiers.

¹⁶⁹ See the *Lubanga* Judgment, *supra* note 18, para. 628. This ruling has been criticised as the distinction between direct participation and “*active participate in hostilities*” is in fact inexistent according to the ICRC Interpretative Guidance. It leads the Trial Chamber to determine when indirect participation becomes active participation *i.e.* direct participation. It is further argued that it also makes children more targetable as a large number of their activities fall within the scope of participating in hostilities. See *e.g.* JENKS (C.) “Law as Shield, Law as Sword: The ICC’s *Lubanga* Decision, Child Soldiers and the Perverse Mutualism of Participation in Hostilities”, *University of Miami National Security and Armed Conflict Law Review*, Vol. III, 2013, pp. 120-124 and VITÉ (S.), “[Between Consolidation and Innovation: The International Criminal Court’s Trial Chamber Judgment in the *Lubanga* case](#)”, *Yearbook of International Humanitarian Law* 2012, pp. 76-82. Some authors are in disagreement with this as they consider that the

on appeal.¹⁷⁰ The CLR1 therefore respectfully requests the Chamber to rule in line with the Appeals Chamber's jurisprudence.

2. Submissions on the evidence in the present case

a) *Temporal and territorial scope of the crimes committed*

55. The CLR1 submits that, as will be seen from the evidence *infra*, the Chamber has heard evidence that, at least from the latter half or quarter of the year 2013,¹⁷¹ the Anti-Balaka enlisted young people and children into their ranks.¹⁷² The children were spread out throughout the group and present on several bases. P-2475 testified [REDACTED].¹⁷³ After the 5 December 2013 Attack, the Anti-Balaka established its base at the YAMWARA school complex in BANGUI¹⁷⁴ sometime in mid-December.¹⁷⁵ At this base, at least one witness testified to have seen a very young boy within the ranks of the group who was approximately twelve years old.¹⁷⁶ Later on, sometime between 20 December 2013 and the beginning of 2014, the Anti-Balaka established a base in SEKIA, behind the church.¹⁷⁷ SEKIA was the main base.¹⁷⁸ A check-point was also set up nearby.¹⁷⁹ Another check-point was set up by the bridge at PK9 and one in

principle of distinction that is found in common article 3 of the Geneva conventions should be used only to interpret International Humanitarian Law provisions, while Articles 8(2)(b)(xxvi) and 8(2)(e)(vii) serve the purpose of protecting children. See *e.g.* YUVARAJ (J.), "When Does a Child 'Participate Actively in Hostilities' under the Rome Statute? Protecting Children from Use in Hostilities after *Lubanga*", *Utrecht Journal of International and European law*, Vol. 69, 2016, pp. 78-80.

¹⁷⁰ See the *Lubanga* Appeal Judgment, *supra* note 10, para. 340.

¹⁷¹ P-2475 stated that he was abducted several months after the Seleka takeover in March 2013 and in any event, prior to his 14th birthday on 25 June. See P-2475: [T-132](#), p. 26, lines 16-25; p. 27, lines 1-25 and p. 28, lines 2-9 (Conf).

¹⁷² See P-2475: [T-132](#), p. 26, lines 16-25; p. 27, lines 1-25 and p. 28, lines 2-9 (Conf); P-2476: [CAR-OTP-2114-0149-R01](#), para. 32 (Conf). P-2475: [T-131](#), p. 15, lines 21-25 (Conf); P-0808: [T-069](#), p. 65, lines 4-6 (Conf).

¹⁷³ See P-2475: [T-132](#), p. 26, lines 16-25; p. 27, lines 1-25 and p. 28, lines 2-9 (Conf).

¹⁷⁴ See P-0884: [T-056](#), p. 13, lines 18-19 (Conf); P-1839: [T-170](#), p. 20, lines 19-25; p. 21, lines 1-25 and p. 22, lines 1-12 (Conf); P-1716: [T-147](#), p. 9, lines 7-12 (Conf); P-1990: [CAR-OTP-2124-0247-R02](#), paras. 25-26.

¹⁷⁵ P-1647 testified that he joined the group [REDACTED]. See P-1647: [CAR-OTP-2050-0654-R01](#), para. 28.

¹⁷⁶ See P-1716: [T-147](#), p. 11, lines 2-4; 21 (Conf); [CAR-OTP-2053-0062-R01](#), para. 38.

¹⁷⁷ See P-1839: [T-170](#), p. 41, lines 1-19; p. 42, lines 10-13 and p. 45, lines 1-3 (Conf); P-1339: [T-152](#), p. 60, lines 15-20 (Conf); P-1647: [CAR-OTP-2050-0654-R01](#), para. 37; P-1858: [T-185](#), p. 21, lines 8-9 (Conf).

¹⁷⁸ See P-0888: [T-120](#), p. 53, line 14 (Conf).

¹⁷⁹ See P-1839: [T-170](#), p. 45, lines 1-3 (Conf).

PISSA.¹⁸⁰ YEKATOM's elements eventually moved down further on the MBAÏKI road and arrived in MBAÏKI on 30 January 2014 where they set up base at the SOCATEL building where the Seleka had previously been.¹⁸¹ They moved there from SEKIA where they had remained for a while when [REDACTED] elements coming from BOSSEMBELE and BOSSANGO had already moved to MBAÏKI.¹⁸² These elements were at another MBAÏKI base near the town hall at the *Maison de jeunes*.¹⁸³

56. Besides bases, the Anti-Balaka also operated numerous check-points where they used children enlisted in the group to man these check-points.¹⁸⁴ For instance, there was a check-point in M'POKO¹⁸⁵ and several in BOEING around the airport that were set up after the 5 December 2024 Attack.¹⁸⁶ There was another check-point at the bridge at PK9 by the PISSMISS house, at which YEKATOM established his presence after 10 January 2014.¹⁸⁷ It is submitted that the Chamber should reject the evidence brought by the Defence that would have it believe that only the Seleka used young people to man checkpoints.¹⁸⁸ Likewise, the Chamber should disregard the evidence of D29-5015 who would have the judges believe that the checkpoints simply attracted children of ten to twelve years to come and play in their vicinity.¹⁸⁹ To the contrary, D29-5015 described that the youngest children of 10 or 12 years old would be the ones physically moving the roadblocks in order to let cars pass upon the command of other elements on site.¹⁹⁰

57. The enlistment and use of children lasted until at least 4 August 2014 when YEKATOM agreed to the demobilization of 153 children from the group.¹⁹¹ The

¹⁸⁰ See P-1647: [CAR-OTP-2050-0654-R01](#), para. 37.

¹⁸¹ See D29-5012: [T-295](#), p. 37, lines 3-4 (Conf).

¹⁸² See P-1339: [T-152](#), p. 60, lines 15-20 (Conf).

¹⁸³ See P-2476: [T-213](#), p. 15, lines 14-16 (Conf).

¹⁸⁴ See P-1577: [T-027](#), p. 29, lines 19-25 and p. 30, lines 1-24 (Conf).

¹⁸⁵ See P-1839: [T-173](#), p. 18, lines 7-24 (Conf).

¹⁸⁶ See P-1839: [T-173](#), p. 20, lines 20-25 and p. 21, lines 1-10. (Conf).

¹⁸⁷ See P-0954: [T-166](#), p. 43, lines 3-10 (Conf); P-1858: [T-185](#), p. 22, lines 23-25 and p. 23, lines 1-2 (Conf).

¹⁸⁸ See D29-5012: [T-293](#), p. 31, lines 12-16 (Conf).

¹⁸⁹ See D29-5015: [T-256](#), p. 15, lines 2-20.

¹⁹⁰ See D29-5015: [T-256](#), p. 15, lines 16-19.

¹⁹¹ See P-1974: [CAR-OTP-2128-1373](#), Annex B.

Chamber has not only heard evidence that Anti-Balaka commanders attended a meeting organized by UNICEF and the NGO *Enfants sans Frontières* (the “ESF”) on 10 May 2014. At this meeting, the organizers explained that it was absolutely forbidden for a child to carry weapons and to participate in combat.¹⁹² It was further explained to the Anti-Balaka commanders that the process of identification and verification was going to take place in the weeks to come.¹⁹³

b) Methods of recruitment of children under 15 by the YEKATOM Group

58. There were various ways in which children joined or were enlisted in the YEKATOM Group. P-0808 stated that, after the Seleka had left, the Anti-Balaka had recruited boys and girls, sometimes by force.¹⁹⁴ P-2475 was among those that were forcefully conscripted or enlisted. He testified that [REDACTED].¹⁹⁵ Once he arrived there, he was told that he could not leave because now he knew where the Anti-Balaka were stationed.¹⁹⁶ He testified that the Anti-Balaka were scared of being betrayed and that once arrived, one had no other choice but to stay until the day that one was released.¹⁹⁷ P-2476 stated that he voluntarily joined the Anti-Balaka movement [REDACTED].¹⁹⁸ [REDACTED].¹⁹⁹ There, he met [REDACTED] who told him that it was good that he had decided to join their ranks but that he had to behave as a good combatant within the movement to enable him to [REDACTED].²⁰⁰ [REDACTED] did not ask P-2476 about his age, nor did he ask him anything else.²⁰¹

59. There were other children who also joined ‘voluntarily’, although as argued *supra*, the consent of a child is not a valid defence. [REDACTED] is an example on

¹⁹² See P-2018: [CAR-OTP-2071-0259-R05](#), para. 35.

¹⁹³ *Ibid.*

¹⁹⁴ See P-2018: [CAR-OTP-2071-0259-R05](#), para. 23.

¹⁹⁵ See P-2475: [T-129](#), p. 12, lines 1-9; p. 13, lines 1-3 (Conf).

¹⁹⁶ See P-2475: [T-129](#), p. 15, lines 15-19 and p. 17, lines 2-5 (Conf).

¹⁹⁷ See P-2475: [T-129](#), p. 17, line 5 (Conf).

¹⁹⁸ See P-2476: [CAR-OTP-2114-0149-R01](#), para. 32.

¹⁹⁹ See P-2476: [T-213](#), p. 15, lines 14-16 (Conf).

²⁰⁰ *Ibid.*

²⁰¹ See P-2476: [T-213](#), p. 16, lines 1-7 (Conf).

point. He joined the movement in [REDACTED].²⁰² There were also street children or children who had already left their parents who joined the group and “*followed along*”.²⁰³ [REDACTED].²⁰⁴ [REDACTED].²⁰⁵ V45-0002 was incited by a friend who said they were all wasting their time at school; if they became part of the Anti-Balaka, there was a possibility to make a lot of money.²⁰⁶

60. These various recruitment methods were corroborated by P-2082, who [REDACTED]. The witness stated that the children relayed that some of them had been forced to join the Anti-Balaka.²⁰⁷ Some were taken on their way to school or from farms while they were with their parents.²⁰⁸ They were not willingly recruited.²⁰⁹ Others, however, [REDACTED] they joined the movement of their own free will because they thought that they would become soldiers this way.²¹⁰ It was only after they joined that they realized that the Anti-Balaka was not like the real military.²¹¹ P-2927, who was heard as an expert on children, stated that it has been observed that children have been enrolled by their parents or other relatives.²¹² Some of the children joining armed groups of ex-FACA were under 15 years old.²¹³ Reasons for joining these ranged from a commitment to the rebellion, vengeance for the deaths of relatives, or money, as some would have been promised a monetary reward after the victory.²¹⁴ She explained that these phenomena have to be understood against the background of FACA elements enjoying a certain level of esteem and prestige; it was also common for young people to actively approach possible ‘circuits’ to join the national army as a normal

²⁰² See P-2475: [T-131](#), p. 15, lines 21-25 (Conf).

²⁰³ See P-2082: [T-217](#), p. 43, lines 11-15 (Conf).

²⁰⁴ See V45-0001: [T-245](#), p. 9, lines 19-25 and p. 10, lines 1-5 (Conf).

²⁰⁵ See V45-0001: [T-245](#), p. 7, lines 1-10 (Conf).

²⁰⁶ See V45-0002: [T-247](#), p. 8, lines 19-23 (Conf).

²⁰⁷ See P-2082: [CAR-OTP-2109-0452-R01](#), para. 47.

²⁰⁸ *Ibid.*

²⁰⁹ *Ibid.*

²¹⁰ *Ibid.*

²¹¹ *Ibid.*

²¹² See P-2927: [CAR-OTP-2122-9082](#), at 9109.

²¹³ *Ibid.*

²¹⁴ *Ibid.*

recruitment process, so that it was ultimately easy for ex-FACA elements to “*get their hands on young people and control them*”.²¹⁵

c) Presence of children under 15 in the YEKATOM Group

61. The CAR government was interested in seeing children associated with armed groups demobilized and they supported various initiatives, such as the ESF-COOPI-UNICEF initiative in 2014.²¹⁶ [REDACTED].²¹⁷ YEKATOM participated personally in the negotiations to release 70 children from the Anti-Balaka.²¹⁸ [REDACTED].²¹⁹ At the same time, [REDACTED].²²⁰ The CLR1 understands and recognizes that there was a general understanding on the part of government figures and NGO workers, that the term “*child*” referred to human beings under the age of 18 based on UNICEF criteria. That being said, the fact that witnesses would refer to children as persons below the age of 18 does not in and of itself negate that among these children, there were several children below the age of 15. Indeed, the youngest among the children [REDACTED] declared that he was eleven years old.²²¹ Thus, while the recorded age range was 11 to 17 years old; some of the children [REDACTED] being 14 or 15 years of age.²²²

62. P-0808 also testified to having observed children within the movement.²²³ They were wearing uniforms and *gris-gris* and were positioned at Anti-Balaka checkpoints.²²⁴ He stated that these children were behaving as though they were military; they were carrying out checks on vehicles, assisting in stopping the vehicles and questioning the vehicles’ occupants.²²⁵ [REDACTED].²²⁶ P-1577, [REDACTED], saw

²¹⁵ See P-2927: [CAR-OTP-2122-9082](#), at 9110.

²¹⁶ See P-2082: [T-217](#), p. 70, lines 17-23 (Conf).

²¹⁷ See P-2082: [T-217](#), p. 15, lines 15-22 (Conf).

²¹⁸ See P-2082: [T-217](#), p. 16, lines 21-25. See also [CAR-OTP-2128-1373](#).

²¹⁹ See P-2082: [T-217](#), p. 17, lines 2-11, 19-23 and p. 18, lines 7-15 (Conf).

²²⁰ See P-2082: [T-217](#), p. 23, lines 15-25 and p. 24, lines 1-2 (Conf).

²²¹ See P-2082: [T-217](#), p. 19, lines 9-11 (Conf).

²²² See P-2082: [T-217](#), p. 19, lines 14-18 (Conf).

²²³ See P-2082: [CAR-OTP-2071-0259-R05](#), para. 25.

²²⁴ *Ibid.*

²²⁵ *Ibid.*

²²⁶ See P-1716: [CAR-OTP-2053-0062-R05](#), para. 17.

children among the ranks of the Anti-Balaka at various check-points.²²⁷ P-1577 testified that [REDACTED] specifically asked them whether they were aware that it was a crime to have children under the age of 15 in their ranks, and [REDACTED] they were indeed aware.²²⁸ [REDACTED].²²⁹ The children P-1577 observed in the Anti-Balaka's ranks on different occasions were commonly carrying weapons, such as machetes, knives, or rifles, especially at the check-points and roadblocks.²³⁰ P-0965 also confirmed the presence of child soldiers in the ranks of the Anti-Balaka. According to him, most of these children came from [REDACTED].²³¹ P-0965 stated that there were children from about 12 years old who were enlisted into the ranks of the Anti-Balaka.²³² He testified that these young children were mostly under the authority of [REDACTED] and the witness personally spoke to them about their respective ages.²³³ Both boys and girls would enlist and generally be assigned the same duties and participate in fighting as well.²³⁴ As such, they were regarded as soldiers and therefore become involved in the fighting of the group.²³⁵ Some of them carried Kalashnikovs.²³⁶

63. [REDACTED].²³⁷ [REDACTED].²³⁸ The CLR1 reiterates his submissions *infra*, namely that the mere fact that the focus of the demobilization of children was on anyone below the age of 18, does not mean that there were no children in this age bracket that were much younger, namely below 15.

²²⁷ See P-1577: [T-027](#), p. 29, lines 19-25 and p. 30, lines 1-24 (Conf). See also [CAR-OTP-2130-4425](#); [CAR-OTP-2085-0251](#); [CAR-OTP-2085-0261](#), [CAR-OTP-2085-2061](#) and [CAR-OTP-2085-2091](#).

²²⁸ See P-1577: [T-027](#), p. 30, lines 21-25 (Conf).

²²⁹ *Ibid.*

²³⁰ See P-1577: [T-027](#), p. 30, lines 11-12 and 21-25 and p. 31, lines 3-6 (Conf).

²³¹ See P-0965: [T-061](#), p. 53, lines 23-25 (Conf).

²³² See P-0965: [CAR-OTP-2046-0090-R01](#), at 0103.

²³³ See P-0965: [T-061](#), p. 39, lines 22-25 (Conf).

²³⁴ See P-0965: [T-061](#), p. 53, lines 17-21 (Conf).

²³⁵ See P-0965: [T-061](#), p. 54, lines 4-6 (Conf).

²³⁶ See P-0965: [T-061](#), p. 54, lines 11-12 (Conf).

²³⁷ See P-2018: [CAR-OTP-2071-0259-R05](#), paras. 37-40 .

²³⁸ See P-2018: [CAR-OTP-2071-0259-R05](#), para. 47.

64. According to P-2475 there were about ten children at [REDACTED].²³⁹ They were all around the same age,²⁴⁰ maybe one or two years apart.²⁴¹ [REDACTED] was about 13 years old and [REDACTED] 14 years.²⁴² [REDACTED] was also around 14 years old.²⁴³ [REDACTED] would have been 15 years old.²⁴⁴ There were also some young girls in the group who would have been 14, 15 or 16 years of age at the time.²⁴⁵ According to P-0808, having a nickname was an indication of them having been a member of an armed group, since they were already adopting military behaviour such as having a combat name.²⁴⁶ V45-0001 who was [REDACTED] years old at the time,²⁴⁷ observed other children in the group, some older than him, some younger.²⁴⁸ V45-0002 testified he was born [REDACTED], which made him about [REDACTED] years old when he joined the Anti-Balaka in [REDACTED].²⁴⁹ P-2475 testified that he was born in [REDACTED], which made him [REDACTED] years old at the time he decided to join the movement.²⁵⁰

65. After the Anti-Balaka had attacked BANGUI on 5 December 2013, they set up base at [REDACTED].²⁵¹ The chiefs re-arranged the group into new sections and the children in the group were distributed across all the sections.²⁵² YEKATOM was the one who was responsible for distributing the troops at [REDACTED]; this included sending the elements – including children – to man check-points.²⁵³ Children were also involved in other activities at [REDACTED]. For instance, P-1716 stated that he saw

²³⁹ See P-2475: [T-129](#), p. 19, lines 3-8 and p. 31, lines 21-25 (Conf); P-2475: [T-130](#), p. 8, lines 6-15 referring to [CAR-OTP-2118-5668](#) at 00:22.

²⁴⁰ See P-2475: [T-129](#), p. 19, line 7 and p. 31, lines 24-25 (Conf).

²⁴¹ See P-2475: [T-129](#), p. 32, lines 17-18 (Conf).

²⁴² See P-2475: [T-129](#), p. 7, line 25 and p. 32, lines 9-18 (Conf).

²⁴³ See P-2475: [T-129](#), p. 32, lines 11-23 (Conf).

²⁴⁴ See P-2475: [T-129](#), p. 32, lines 14-15 (Conf).

²⁴⁵ See P-2475: [T-129](#), p. 27, lines 22-23 (Conf).

²⁴⁶ See P-2082: [CAR-OTP-2071-0259-R05](#), para. 43.

²⁴⁷ See V45-0001: [T-245](#), p. 6, lines 2-3 (Conf).

²⁴⁸ See V45-0001: [T-245](#), p. 12, lines 9-10 (Conf).

²⁴⁹ See V45-0002: [T-247](#), p. 6, lines 20-22 and p. 9, lines 4-9 (Conf).

²⁵⁰ See P-2475: [T-129](#), p. 7, line 25 (Conf).

²⁵¹ See P-2475: [T-129](#), p. 54, lines 17-18 and p. 56, lines 6-8 (Conf).

²⁵² See P-2475: [T-129](#), p. 56, lines 6-7 (Conf).

²⁵³ See P-2475: [T-129](#), p. 57, lines 3-5 (Conf).

children beating and mistreating prisoners at [REDACTED].²⁵⁴ They also acted as spies, cooks, fighters, and agents at the barricades or were running errands like buying food in the market.²⁵⁵ For instance, P-1813, [REDACTED] saw children as young as ten years old at [REDACTED].²⁵⁶

66. [REDACTED].²⁵⁷ [REDACTED].²⁵⁸

ID and school documents in the CAR

67. [REDACTED].²⁵⁹ The Central African Family Code, Law 97.013. article 134 states in relevant part:

*Les déclarations de naissance doivent être faites dans le mois qui suit la naissance. Lorsqu'une naissance n'a pas été déclarée dans le délai légal, l'Officier de l'État-Civil ne peut la relater dans ses registres qu'en vertu d'un jugement rendu par le Tribunal de Grande Instance du ressort dans lequel est né l'enfant.*²⁶⁰

68. The witness confirmed that having the Tribunal issue such declaratory judgment implies a fee for the family concerned.²⁶¹ He agreed with the Defence's suggestion that because such cost is involved, persons of Catholic or Protestant Christian faith would more regularly resort to baptism certification rather than official civil status declarations.²⁶² He also affirmed the practice, as stipulated by article 137 of the Family Code, that where a child is born in a hospital, the doctor or midwife would refer the mother to the town hall and that a bulletin with the newborn's information would be sent to the town hall by the hospital or health centre.²⁶³ Only during the time of the Seleka ruling the country, there were difficulties as regards the efficient

²⁵⁴ See P-1716: T-147, p. 12, lines 20-22 (Conf).

²⁵⁵ See CAR-OTP-2071-0259-R05, para. 42.

²⁵⁶ See CAR-OTP-2083-0279-R01, para. 21.

²⁵⁷ See V45-0001: T-249, p. 13, lines 2-7 (Conf).

²⁵⁸ See V45-0001: T-249, p. 12, line 23 and p. 13, lines 2-19 (Conf).

²⁵⁹ See P-1813: T-181, p. 4, lines 22-23 (Conf).

²⁶⁰ See CAR-D29-0001-0436, at 0447.

²⁶¹ See P-1813: T-181, p. 5, lines 22-25 and p. 6, line 1 (Conf).

²⁶² See P-1813: T-181, p. 6, lines 6-10 (Conf).

²⁶³ See P-1813: T-181, p. 7, lines 1-7 (Conf); CAR-D29-0001-0436, at 0447.

functioning of hospitals or midwives duly registering births.²⁶⁴ The CLR1 reiterates in full by reference his prior submissions on the documentation of civil status in the CAR made in these proceedings.²⁶⁵ It is not uncommon that individuals possess a plethora of personal identification documents produced on a purely declaratory basis; neither is it uncommon that the information contained in these various documents is not internally coherent.²⁶⁶

69. P-1318 testified that when it comes to attestations, such as dates of birth or death, chiefs of villages throughout the CAR have difficulties in keeping archives, village registries, where all the events are registered.²⁶⁷ He also clarified the competencies of village chiefs versus mayors when it comes to attestations of births as opposed to residence status.²⁶⁸ According to P-1318, if a person wanted to justify their identity or civil status, they had to carry out the procedure with the civil status registry or ask for an identity card.²⁶⁹ The limited probative value of several documents was noted by the Presiding Judge.²⁷⁰

70. [REDACTED], P-2084, explained the applicable procedure of issuing birth certificates [REDACTED]. [REDACTED].²⁷¹ After such authentication [REDACTED], the document, such as for example a birth or death certificate, is made.²⁷² [REDACTED].²⁷³ As regards birth certificates in particular, P-2084 explained that for the creation of an original birth certificate, the superior court in MBAÏKI would initial

²⁶⁴ See P-1813: T-181, p. 8, lines 10-23 (Conf).

²⁶⁵ See the “Confidential Redacted Version of the “Response of the Common Legal Representative of the Former Child Soldiers to the “Yekatom Defence Request for the Amendment of the Victim Application Procedure””, No. ICC-01/14-01/18-1498-Conf-Exp, dated 4 July 2022 “ [No. ICC-01/14-01/18-1498-Conf-Red](#), 5 July 2022, para. 38 and citations included therein.

²⁶⁶ *Ibid.*

²⁶⁷ See P-1813: T-181, p. 21, lines 6-13 (Conf). See also: [CAR-OTP-2135-2412](#), at 2416 and [CAR-OTP-2135-2405](#), at 2410.

²⁶⁸ See P-1813: T-181, p. 22, lines 23-25 and p. 23, lines 1-3 (Conf).

²⁶⁹ See P-1813: T-181, p. 23, lines 11-14 (Conf).

²⁷⁰ See P-1813: T-181, p. 25, lines 4-6 (Conf).

²⁷¹ See P-2084: T-233, p. 28, lines 23-25 (Conf).

²⁷² See P-2084: T-233, p. 29, lines 1-3 (Conf).

²⁷³ See P-2084: T-233, p. 29, lines 10-12 (Conf).

all the pages of the register and put a stamp and it is that register that is then used in [REDACTED].²⁷⁴ Normally, when a child is born in a health centre, the midwife delivers the bulletin of birth which is taken to [REDACTED] within the applicable timeframe.²⁷⁵ [REDACTED], which is why the name of the midwife is also mentioned in the certificate [REDACTED] and the certificate bears stamp and initials of the tribunal on the basis of the authorised register.²⁷⁶ [REDACTED].²⁷⁷ In case a birth was not declared within the legal framework, the person requesting the certificate would have to go to the courts, where a supplemental certificate would be provided.²⁷⁸ [REDACTED], in order to meet the requirements of the legal procedure, the birth must be declared within one month, and the date, hour and place of birth must be recorded and written out in letters.²⁷⁹ The name, first name and sex of the child must be provided and as regards the parents, the name first name, profession, age and normal place of residence of both parents must be recorded.²⁸⁰ Each official birth certificate has a specific number that is particular to this birth certificate and it would also indicate the date the birth was declared.²⁸¹

71. The CLR1 thus submits that the Chamber should have regard to the local realities in the field, namely that, often times, the correct legal procedure may not have been complied. Children were not always born in a health centre. Parents did not always register their children within the required time frame of one month. Parents may not have appreciated the necessity of obtaining a court declaration, subsequently, not least due to the fact that doing so would have been associated with considerable cost, which most family in poorer villages and regions may not have been able to afford or placed significance on. Therefore, the CLR1 submits that the Chamber should, in

²⁷⁴ See P-2084: T-233, p. 30, lines 2-5 (Conf).

²⁷⁵ See P-2084: T-233, p. 30, lines 18-22 (Conf).

²⁷⁶ See P-2084: T-233, p. 30, lines 23-25 and p. 31, lines 1-3 (Conf).

²⁷⁷ See P-2084: T-233, p. 31, lines 4-5 (Conf).

²⁷⁸ See P-2084: T-233, p. 31, lines 8-11 (Conf).

²⁷⁹ See P-2084: T-233, p. 31, lines 12-17 (Conf).

²⁸⁰ See P-2084: T-233, p. 31, lines 20-25 and p. 32, line 1 (Conf).

²⁸¹ See P-2084: T-233, p. 31, lines 2-7 (Conf).

the first place rely on the direct testimony of the witnesses it heard, particularly former child soldiers giving their own ages or assessing the ages of their peers. In the second place, assess as credible these individuals whose age estimations are supported by documentary evidence that corroboratively records the age of individuals concerned, such as baptism certificates, school certificates or other similar official documents. These two categories should be preferred over any other document, or stand-alone birth certificate, such as those submitted by the Defence.²⁸²

72. For instance, P-2476's testimony on his age, namely that he was born on [REDACTED],²⁸³ was supported by his birth certificate²⁸⁴ and was not challenged by the Defence. As regards CLR1's own clients, and although the Defence challenged the family names of V45-0001 and V45-0002, it did not challenge the year of birth of these witnesses, [REDACTED]. V45-0001's year of birth is further corroborated by the documentary evidence on the record.²⁸⁵

Identity and age assessment

73. P-1839 who was generally a very credible witness saw a very small child among the two that were with [REDACTED]. The witness rejected the proposition that [REDACTED] was born in [REDACTED] and stated that [REDACTED] was [REDACTED] perhaps eleven or twelve years old at the time.²⁸⁶ As P-1839 was familiar with [REDACTED]²⁸⁷ P-1839's testimony is to be preferred over the documentation proffered by the Defence. P-1339 estimated [REDACTED] age at around 14 years old or 15 at most.²⁸⁸ It is submitted that P-1839 and P-2475 gave the most accurate assessment of [REDACTED] age. Other evidence on the record, such as video material

²⁸² See e.g. P-2475: T-131, p. 84, lines 9-25 and p. 85, lines 9-11 referring to CAR-D29-0013-0128.

²⁸³ See P-2476: T-213, p. 6, lines 9-12 (Conf); CAR-OTP-2114-0149-R01, para. 11.

²⁸⁴ See P-2476: CAR-OTP-2114-0162-R01.

²⁸⁵ See CAR-V45-00000012; CAR-V45-00000013; CAR-V45-00000014; CAR-V45-00000015.

²⁸⁶ See P-1839 : T-170, p. 67, lines 6-8 and p. 68, lines 6-10 (Conf). See also CAR-D29-0015-0029; CAR-D29-0001-0426 at 0428.

²⁸⁷ See P-1839: T-171, p. 7, line 18 (Conf); CAR-OTP-2065-3843.

²⁸⁸ See P-1339: T-155, p. 34, lines 3-10 and p. 47, lines 5-11 (Conf).

in which [REDACTED] was clearly identified supports their assessment of [REDACTED] having at most been 14 years old.²⁸⁹

74. According to P-2475, there was a very small child nicknamed [REDACTED].²⁹⁰ Photographic material on the record supports the assessment that [REDACTED] was only around eleven or twelve years old.²⁹¹ P-1716 also saw a very young boy of approximately twelve years at [REDACTED].²⁹² This young child was amongst other children who wore *gris-gris* and carried machetes.²⁹³ P-1716 testified that it was obvious that this boy was only twelve years old judging by his size.²⁹⁴ As argued *supra*, the Defence did not challenge the year of birth of V45-0001 and V45-0002.

75. It is submitted that there were a number of credible insider witnesses who, although fully associated with the movement themselves, acknowledged the fact that children were enlisted and used in the Anti-Balaka. For instance, P-0808, [REDACTED] children [REDACTED] were between 14 and 17 years old.²⁹⁵ He based his estimation on “*cultural factors*”.²⁹⁶ Unfortunately, his testimony was not specific as to the number of 14-year-olds among the group of 20. However, the fact that even just one child was as young as 14 is sufficient for the Chamber to find the material elements of Count 29 to be established.

76. The Chamber heard the testimony of several witnesses who stated that there were children in the movement who were above the age of 15. For instance, [REDACTED] testified that he had “*no doubt*” that young people aged over 15 joined the ESF programme.²⁹⁷ P-1974, [REDACTED] explained that the NGO was closely

²⁸⁹ See [CAR-OTP-2065-3843](#), at 10:35.

²⁹⁰ See **P-2475: T-131**, p. 9, lines 8-9 and p. 13, line 1 (Conf).

²⁹¹ See **P-2475: T-131**, p. 9, lines 7-9 (Conf) referring to [CAR-D29-0010-0024](#); and p. 17 referring to [CAR-D29-0010-0026](#); and **T-132**, p. 6, lines 3-7 (Conf).

²⁹² See **P-1716: T-147**, p. 11, lines 2-4; 21 (Conf); [CAR-OTP-2053-0062-R01](#), para. 38.

²⁹³ See **P-1716: T-147**, p. 12, lines 20-22 (Conf).

²⁹⁴ See **P-1716: T-147**, p. 10, lines 1-4 (Conf).

²⁹⁵ See **P-0808: T-070**, p. 3, lines 22-25 (Conf).

²⁹⁶ See **P-0808: T-070**, p. 3, lines 24-25 and p. 4, lines 1-8 (Conf).

²⁹⁷ See **P-1813: T-181**, p. 46, line 25; p. 47, lines 1-6 and 9-15 (Conf).

working with UNICEF and that the age requirement for participating children was to be below 18 years old.²⁹⁸ He also testified that the children that enrolled would give their ages and that no documentation was obtained, as they were [REDACTED].²⁹⁹ Although the ages were not verified and P-1974 [REDACTED], he testified that he knows that the children who [REDACTED] were between 9 and 18 years old.³⁰⁰ It was [REDACTED] that selected the children and it was only the reports and documentation that were sent to UNICEF for monthly follow-up.³⁰¹ The CLR1 submits that the fact that the benchmark is set at the higher end, namely 18 years of age, has no bearing upon the age *range* of children who participated in [REDACTED]. The range alone gives no information about how many of these children were 14 and how many were older. Thus, the CLR1 submits that it is reasonable to rely on the eye-witness testimony of insiders and other fact witnesses when it comes to the assessment of the child soldiers' ages and who clearly and positively identified several individuals being way below the age of 15.

77. For instance, P-2082 [REDACTED] had the opportunity to speak to several children at [REDACTED].³⁰² P-2082 stated that the age range of children as indicated by [REDACTED] was between 11 and 17, but could not remember the age range of the specific children she spoke with, and in any event did not believe that this age bracket was necessarily correct.³⁰³ For instance, she stated that she was aware of a young man lying about his age and pretending to be 17 years old when he was in fact in his early twenties.³⁰⁴ Nevertheless, P-2082 also saw a young child who said that he was around 11 years old.³⁰⁵ The witness specifically sought him out after having seen the age of

²⁹⁸ See P-1974: [T-227](#), p. 9, lines 14-23, p. 10, lines 11-25, p. 11, lines 1-3, p. 80, lines 20-23 (Conf); [CAR-OTP-2068-0222](#), paras. 16, 35.

²⁹⁹ See P-1974: [T-227](#), p. 81, lines 2-9 (Conf).

³⁰⁰ See P-1974: [T-227](#), p. 81, lines 20-23, p. 82, lines 4-6 (Conf).

³⁰¹ See P-1974: [T-227](#), p. 82, lines 17-22 (Conf).

³⁰² See P-2082: [CAR-OTP-2109-0452-R01](#), para. 45.

³⁰³ *Ibid.*

³⁰⁴ *Ibid.*

³⁰⁵ See P-2082: [T-217](#), p. 19, lines 9-11 (Conf).

“eleven” recorded for one child [REDACTED].³⁰⁶ The witness stated that this child was malnourished as he looked particularly small for an eleven year-old child.³⁰⁷ Other children told P-2082 that they were 14 or 15 years old.³⁰⁸ P-2082 understood that they had been child soldiers because they would also speak about having forcibly been taken and enlisted in the armed group.³⁰⁹ Thus, there is no doubt that there were at least several children who had been enlisted into the YEKATOM Group that were below 15 years of age that enrolled in [REDACTED], even though their exact birthday may not be known or verified. P-2082, [REDACTED] is a perfectly situated witness to speak to the age of the children with whom she spoke directly on this occasion. The Chamber has no reason to doubt her veracity on this. Of note is also that she was very straightforward in her answer and indicated exactly when she did not know or had not had a reason to question information at the time.

78. As regards the identity of V45-0001 and V45-0002, the CLR1 will address the matters in section VII *infra*.

The term ‘tangani’

79. P-2475 testified that his nickname is [REDACTED].³¹⁰ [REDACTED] told him that because he was so small he had to toughen up and be braver.³¹¹ P-2475 explained that the term “*tangani*” in its ordinary use signifies “*a Benjamin, the youngest in the family or the smallest in the group*”.³¹² In the Anti-Balaka group, several of the smallest children were [REDACTED] known as TANGANI, such as [REDACTED], whose real name

³⁰⁶ See P-2082: T-217, p. 46, lines 9-15 (Conf).

³⁰⁷ See P-2082: T-217, p. 46, lines 13-16 (Conf). See also P-2082: T-217 [FR], p. 50, lines 8-10 (Conf), noting the instruction of the Chamber in the “Further Directions on the Conduct of the Proceedings (End of Defence Presentation of Evidence and Closure of Evidence)” No. ICC-01/14-01/18-2342, 2 February 2024, para. 12, footnote 8.

³⁰⁸ See P-2082: T-217, p. 19, lines 16-18 (Conf).

³⁰⁹ See P-2082: T-217, p. 19, lines 19-25 and p. 20, lines 1-20 (Conf).

³¹⁰ See P-2475: T-129, p. 7, lines 15-19 and p. 14, lines 11-14 (Conf).

³¹¹ See P-2475: T-129, p. 14, lines 12-13 (Conf).

³¹² See P-2475: T-129, p. 14, lines 17-19 (Conf).

was [REDACTED] but who was nicknamed [REDACTED].³¹³ He was [REDACTED], as they thought he was very brave to join them of his own accord.³¹⁴ He joined the Anti-Balaka when they were on [REDACTED] and later on moved to staying with [REDACTED].³¹⁵ P-1839, who was born in [REDACTED],³¹⁶ also testified that there was a child in the entourage of [REDACTED] who was known as TANGANI.³¹⁷

d) Use of children under 15 in the YEKATOM Group to participate actively in hostilities

80. V45-0002 testified that he participated in two battles while he was a member of the Anti-Balaka group.³¹⁸ [REDACTED].³¹⁹ He was positioned “*behind the troops*” and carried a Kalashnikov with which he eventually [REDACTED].³²⁰

81. According to P-2475, all elements of the Anti-Balaka that had been stationed and trained at [REDACTED] went to fight [REDACTED]. No one stayed behind; all women, children and men who made up the group moved towards [REDACTED] and fought.³²¹ Everyone was carrying a machete or knife; [REDACTED].³²²

82. During the 5 December 2013 Attack, the children had to follow the chiefs so as to be able to supply the latter with ammunition to reload their firearms when needed and to kill those who had been hit by bullets. The children would use their machetes and knives to “*finish*” the victims off.³²³ [REDACTED].³²⁴ [REDACTED], for instance, followed [REDACTED] in order to supply him with ammunition as they advanced.³²⁵

³¹³ *Ibid.* See also P-2475: [T-131](#), p. 19, lines 2-4 and p. 68, line 12 to p. 69, line 4 (Conf), referring to [CAR-D29-0010-0027](#).

³¹⁴ See P-2475: [T-131](#), p. 13, lines 1-5 (Conf).

³¹⁵ See P-2475: [T-131](#), p. 13, lines 11-16 and 24-25 (Conf).

³¹⁶ See P-1839: [T-170](#), p. 6, lines 6-7 (Conf).

³¹⁷ See P-1839: [T-170](#), p. 66, lines 11-12 (Conf).

³¹⁸ See V45-0002: [T-247](#), p. 19, line 1 (Conf).

³¹⁹ See V45-0002: [T-247](#), p. 19, lines 11, 23 and p. 20, lines 5-6 (Conf).

³²⁰ See V45-0002: [T-247](#), p. 20, lines 12-18 and p. 21, line 19 (Conf).

³²¹ See P-2475: [T-129](#), p. 39, lines 9-10 (Conf).

³²² See P-2475: [T-129](#), p. 44, lines 14-15 and p. 45, lines 2-3 (Conf).

³²³ See P-2475: [T-129](#), p. 44, lines 4- 5 and 8-10 (Conf).

³²⁴ See P-2475: [T-133](#), p. 12, lines 1-2 (Conf).

³²⁵ See P-2475: [T-133](#), p. 12, lines 1-5 (Conf).

83. P-2475 testified that several Muslim traders were killed this way in [REDACTED] on 5 December 2013.³²⁶ One more Muslim man was killed in [REDACTED].³²⁷ The children were involved in stabbing him after he was shot.³²⁸ They then continued on [REDACTED] which they entered in order to kill their inhabitants.³²⁹ P-2475 testified that the chiefs shot at the inhabitants and the children had to finish them off with knives and machetes.³³⁰ The men were killed and the women they found were injured.³³¹ In [REDACTED] for instance, they [REDACTED] killed the man and beat the woman.³³²

84. Sometime after the 5 December 2013 Attack, V45-0002 also participated in the battle the Anti-Balaka waged in [REDACTED].³³³ The battle was intense with heavy losses on both sides. V45-0002 was armed with a Kalashnikov, [REDACTED].³³⁴ [REDACTED].³³⁵

e) Other forms of the use of children under 15 by the YEKATOM Group

85. P-2084, [REDACTED] observed that it is a general problem within the CAR that children of school age do not go to school and have nothing to do.³³⁶ The availability of weapons enables them to take up weapons and commit crimes.³³⁷ More schools are required in the country to solve this systematic problem, but there is also a shortage of teachers.³³⁸ Indeed, the presence of child soldiers in the YEKATOM Group is testament to this systematic problem.

³²⁶ See P-2475: [T-129](#), p. 50, lines 1-8 (Conf).

³²⁷ See P-2475: [T-129](#), p. 50, lines 4-5 (Conf).

³²⁸ See P-2475: [T-133](#), p. 19, lines 6-8 (Conf).

³²⁹ See P-2475: [T-129](#), p. 51, lines 15-18 (Conf).

³³⁰ See P-2475: [T-129](#), p. 53, lines 5-9 (Conf); P-2475: [T-133](#), p. 6, lines 10-11 (Conf).

³³¹ See P-2475: [T-129](#), p. 51, lines 15-18 (Conf).

³³² See P-2475: [T-133](#), p. 20, lines 2-4 (Conf).

³³³ See V45-0002: [T-247](#), p. 22, lines 3-9 (Conf).

³³⁴ See V45-0002: [T-247](#), p. 23, lines 4-5 (Conf).

³³⁵ See V45-0002: [T-247](#), p. 24, lines 16-20 and p. 30, lines 4-7 (Conf).

³³⁶ See P-2084: [T-233](#), p. 18, lines 14-25 and p. 19, line 18 (Conf).

³³⁷ *Ibid.*

³³⁸ *Ibid.*

Guards and escorts

86. Just as the civilian men and women who had joined the movement, children were used to stand guard and provide safety and security to the chiefs.³³⁹ Not all children in the armed group participated in combat, as there were some who cooked, some who went into the field to collect items, and some who conducted observations, some stationed at the checkpoints, some fetched water and washed clothes.³⁴⁰

87. In [REDACTED], children were stationed on guard duty.³⁴¹ At night, no one could sleep in case there was an attack.³⁴² There was also training on assembling and dismantling weapons, and how to use them during the night.³⁴³ Specifically, both civilian children and adults were to be on guard duty in the location where [REDACTED] was sleeping, as their main duty was to “*ensure the security and safety of [their] chiefs*”.³⁴⁴ The children only had knives and sticks when they stood on guard duty.³⁴⁵ When the chief was sleeping, the children would set up small checkpoints on all the paths leading to the location where the chief was sleeping and stand guard on those checkpoints.³⁴⁶ Many people were arrested at [REDACTED] checkpoints.³⁴⁷

88. P-2475 recalls children being asked to go to [REDACTED] stand guard there, [REDACTED].³⁴⁸ At [REDACTED], P-0888 saw at least five to six children, and there were also girls in [REDACTED].³⁴⁹

³³⁹ See P-2475: T-129, p. 34, lines 4-13 (Conf).

³⁴⁰ See P-1974: T-228, p. 27, lines 3-22 (Conf). See also P-2251: T-043, p. 57, line 25 to p. 58, line 3 (Conf). See also V45-0001: T-245, p. 31, lines 12-17 (Conf).

³⁴¹ See P-2475: T-129, p. 32, lines 14-18 (Conf).

³⁴² *Ibid.*

³⁴³ *Ibid.*

³⁴⁴ See P-2475: T-129, p. 33, line 11 to p. 34, line 7 (Conf).

³⁴⁵ See P-2475: T-129, p. 33, lines 15-18 (Conf).

³⁴⁶ See P-2475: T-129, p. 35, lines 15-18 (Conf).

³⁴⁷ See P-2475: T-129, p. 36, line 1 (Conf).

³⁴⁸ See P-2475: T-131, p. 15, lines 3-8 (Conf).

³⁴⁹ See P-0888: T-120, p. 78, lines 9-14 (Conf).

89. According to P-1839, there were three child soldiers in the YEKATOM Group, of which two were working as [REDACTED].³⁵⁰ P-1839 recalls the names of the child soldiers as [REDACTED].³⁵¹ [REDACTED] was a child P-1839 knew at [REDACTED].³⁵²

90. [REDACTED] was an element in the YEKATOM Group.³⁵³ P-1839 heard that [REDACTED] had killed someone, and that he had [REDACTED].³⁵⁴ When asked to give an estimate of [REDACTED] age, P-1839 estimates that he was around 11 or 12 years old at that time.³⁵⁵ P-1839 reiterates that [REDACTED] who were at YEKATOM's side were not of majority at all.³⁵⁶ [REDACTED].³⁵⁷

91. Regarding the two children, [REDACTED], on [REDACTED], P-1839 stated that these children did not have any real function, and they were [REDACTED].³⁵⁸ Meanwhile, P-1839 saw [REDACTED] at [REDACTED],³⁵⁹ and stated unequivocally that he is "*an Anti-Balaka element, a child soldier*" [REDACTED].³⁶⁰

Protecting bases and serving at barriers and checkpoints

92. When the Anti-Balaka group set up camp at [REDACTED], they erected many checkpoints [REDACTED].³⁶¹ They would stop people at these checkpoints and if the people were Muslim, they would bring them [REDACTED].³⁶² According to P-2475,

³⁵⁰ Witness P-1839 mentions two child soldiers at first, but it is clear that she is talking about three child soldiers: P-1839: T-170, p. 65, line 19 to p. 66, line 12 (Conf). The reference to three child soldiers is later confirmed again. See P-1839: T-171, p. 5, lines 23-24.

³⁵¹ See P-1839: T-170, p. 65, line 19 to p. 66, line 12 (Conf).

³⁵² See P-1839: T-170, p. 66, lines 1-12 (Conf).

³⁵³ See P-1839: T-170, p. 67, line 8 (Conf).

³⁵⁴ See P-1839: T-170, p. 67, lines 11-17 (Conf).

³⁵⁵ See P-1839: T-170, p. 68, lines 6-12 (Conf).

³⁵⁶ See P-1839 : T-170, p. 69, lines 3-5 (Conf).

³⁵⁷ See P-1839 : T-172, p. 54, line 4 (Conf).

³⁵⁸ See P-1839: T-171, p. 6, lines 1-3; 7-9 (Conf).

³⁵⁹ See P-1839: T-171, p. 6, lines 2-3 (Conf).

³⁶⁰ See P-1839: T-171, p. 7, line 21 to p. 8, line 5 (Conf), which refers to CAR-OTP-2065-3843 at 00:01:18. P-1839 identifies [REDACTED] as the one [REDACTED].

³⁶¹ See P-2475: T-129, p. 56, lines 6-8 and 12-13 (Conf).

³⁶² See P-2475: T-129, p. 56, lines 15-16 (Conf).

the Muslims would be killed if they *“did not give the right answers”* and children would be involved in these killings.³⁶³

93. Not only did P-1577 personally see child soldiers at Anti-Balaka road blocks, but in his discussions with [REDACTED], it emerged that these organisations also encountered Anti-Balaka child soldiers in villages or at roadblocks.³⁶⁴ At the time of the transitional government of SAMBA-PANZA, P-1813 [REDACTED].³⁶⁵ According to P-1813, boys as young as ten years old and armed with traditional weapons, such as knives, bows and arrows would man checkpoints together with other Anti-Balaka elements.³⁶⁶ He would see them frequently, [REDACTED].³⁶⁷ The children wore a mix of civilian clothing and military attire and were clearly part of the Anti-Balaka group.³⁶⁸ In comparison to other Anti-Balaka who were there, these individuals were younger, so it was *“easy for [him] to ascertain that these were young people, younger than 18 years of age”*.³⁶⁹

94. As regards the children who were working at check-points, P-1813 stated that some of them wore a mix of uniforms and civilian clothes.³⁷⁰ Some had *gris-gris* and, even the younger ones, had knives, bows and arrows.³⁷¹ P-1813 specifically rejected the proposition that these would have been children who just came to play around Anti-Balaka bases.³⁷² The children were doing check-point duties, such as stopping citizens and demanding them to show their ID.³⁷³

³⁶³ See P-2475: T-129, p. 56, lines 16-17 (Conf).

³⁶⁴ See P-1577: T-028, p. 14, lines 10-21 (Conf).

³⁶⁵ See P-1813: T-180, p. 47, lines 10-25 (Conf).

³⁶⁶ See P-1813: T-180, p. 47, line 5 to p. 48, line 20 (Conf). See also, CAR-OTP-2083-0279-R01, paras. 21, 23.

³⁶⁷ See P-1813: T-180, p. 47, lines 5-6 (Conf). See also, CAR-OTP-2083-0279-R01, para 21.

³⁶⁸ See P-1813: T-180, p. 48, lines 4-7 (Conf); CAR-OTP-2083-0279-R01, paras 22-23.

³⁶⁹ See P-1813: T-180, p. 48, lines 16-20 (Conf).

³⁷⁰ See CAR-OTP-2083-0279-R01, para. 23.

³⁷¹ *Ibid.*

³⁷² *Ibid.*

³⁷³ See V45-0002: T-247, p. 28, lines 16-18 (Conf).

95. Likewise, P-2475 testified that children would man checkpoints [REDACTED] together with adult soldiers.³⁷⁴ [REDACTED].³⁷⁵ In [REDACTED], V45-0002 was stationed at a checkpoint and asked people for money who did not have the necessary documentation or identification, which would then be given to the respective chief.³⁷⁶ The money the children collected was handed over to the chief; if there was a lot of money that day, the chief would sometimes let them have a small share.³⁷⁷

96. [REDACTED].³⁷⁸ [REDACTED].³⁷⁹ YEKATOM was responsible for distributing elements to the different barricades.³⁸⁰

97. YEKATOM controlled a number of checkpoints, in particular [REDACTED].³⁸¹ P-1962 [REDACTED] was therefore in a position to know that YEKATOM installed those checkpoints and managed them.³⁸² [REDACTED].³⁸³ These elements were armed with knives and machetes.³⁸⁴ P-1962 saw many children manning these checkpoints.³⁸⁵ According to P-1962's estimation, these children were around 16 and 17 years old.³⁸⁶ There were many of these children that P-1962 saw [REDACTED].³⁸⁷ Some of these children were at the checkpoint, while others were behind cooking and making coffee.³⁸⁸ All of the Anti-Balaka elements had *gris-gris*, knives and machetes.³⁸⁹

³⁷⁴ See P-2475: [T-129](#), p. 57, lines 3-5 (Conf).

³⁷⁵ See P-2475: [T-130](#), p. 45, lines 19-24 (Conf).

³⁷⁶ See V45-0002: [T-247](#), p. 29, lines 1-9 (Conf); p. 30, lines 6-10 (Conf).

³⁷⁷ See V45-0002: [T-247](#), p. 29, lines 15-23 (Conf).

³⁷⁸ See P-2475: [T-129](#), p. 54, line 24 to p. 55, line 3 (Conf).

³⁷⁹ See P-2475: [T-129](#), p. 55, lines 6-8 (Conf); p. 56, lines 3-5 (Conf).

³⁸⁰ See P-2475: [T-129](#), p. 56, lines 8-10 (Conf).

³⁸¹ See P-1962: [T-139](#), p. 32, lines 23-24 and p. 33, lines 4-5 (Conf). See also [CAR-OTP-2068-0037-R04](#), para. 116.

³⁸² *Ibid.*

³⁸³ See P-1962: [T-139](#), p. 33, lines 6-20.

³⁸⁴ See P-1962: [T-139](#), p. 35, line 13.

³⁸⁵ See P-1962: [T-139](#), p. 35, line 25.

³⁸⁶ See P-1962: [T-139](#), p. 36, line 3.

³⁸⁷ See P-1962: [T-139](#), p. 36, lines 7-8.

³⁸⁸ See P-1962: [T-139](#), p. 36, lines 12-13.

³⁸⁹ See P-1962: [T-139](#), p. 36, lines 16-17.

98. P-2475 recalls manning barricades along [REDACTED] to collect money from people who passed by and did not have identity on them and would require them to pay [REDACTED] to pass.³⁹⁰ Vehicles and motorbikes that went through these barricades also had to complete formalities, and that is how money was collected and given to the chief.³⁹¹ They stood guard [REDACTED], and when they went back the money collected would be distributed.³⁹²

99. According to P-2476, a former child soldier in the YEKATOM Group, [REDACTED], were confined to the base, prepared food and carried out small tasks within the base.³⁹³ They did not leave the base.³⁹⁴ They would be guarding the base and had knives as weapons which [REDACTED].³⁹⁵ [REDACTED].³⁹⁶ They would guard the base all the time, particularly when the adults [REDACTED].³⁹⁷

100. Likewise, P-2018 recalls seeing children at roadblocks [REDACTED].³⁹⁸ There were about [REDACTED] children in [REDACTED], and also children within the camps.³⁹⁹ Some were running errands, some were spies and they appeared to be active.⁴⁰⁰ Some children were wearing military attire and *gris-gris*.⁴⁰¹ The children at the roadblocks were extorting people for money so they could provide food to other children and other Anti-Balaka members at the camp.⁴⁰² P-2476 stated that a source of income to buy food would come from guarding the roadblocks.⁴⁰³

³⁹⁰ See P-2475: [T-129](#), p. 45, line 12 to p. 47, line 9 (Conf).

³⁹¹ *Ibid.*

³⁹² *Ibid.*

³⁹³ See P-2476: [T-213](#), p. 21, lines 4-5 and p. 21, lines 6-20 (Conf).

³⁹⁴ See P-2476: [T-213](#), p. 21, lines 4-5 (Conf).

³⁹⁵ See P-2476: [T-213](#), p. 22, lines 1-13 (Conf).

³⁹⁶ See P-2476: [T-213](#), p. 23, lines 10-14 (Conf).

³⁹⁷ See P-2476: [T-213](#), p. 23, lines 18-22 (Conf).

³⁹⁸ See P-2018: [T-222](#), p. 23, lines 10-11 (Conf).

³⁹⁹ See P-2018: [T-222](#), p. 23, line 22 to p. 24, line 1 (Conf).

⁴⁰⁰ See P-2018: [T-222](#), p. 24, lines 4-7 (Conf).

⁴⁰¹ See P-2018: [T-222](#), p. 24, lines 11-13 (Conf).

⁴⁰² See P-2018: [T-222](#), p. 24, lines 19-23 (Conf).

⁴⁰³ See P-2476: [T-213](#), p. 25, lines 1-3 (Conf).

101. In the context of [REDACTED], P-1974 stated that during a visit to [REDACTED] checkpoint, he saw six children at this checkpoint – some were dressed in military attire while some were in civilian attire.⁴⁰⁴ When P-1974 spoke to two of these children, the other children also approached him and told P-1974 that they belonged to the Anti-Balaka group.⁴⁰⁵ At the checkpoint in [REDACTED], P-1974 saw seven children, aged between 9 and 15, and two were manning the barrier.⁴⁰⁶ The youngest child in that group was about 9 years old.⁴⁰⁷

102. P-1577, [REDACTED] testified that he saw many children carrying weapons, machetes, knives or rifles.⁴⁰⁸ This was particularly common at roadblocks that children were manning.⁴⁰⁹ While there was a hierarchy within the Anti-Balaka, there were children who identified as Anti-Balaka and carried weapons.⁴¹⁰

103. Given the direct testimonies of P-2475, V45-0001, V45-0002 and P-2476 who were former child soldiers in the YEKATOM Group, in addition to P-1839's evidence on her observations and experiences in the movement, and other witnesses such as P-1813, P-1962, P-1974 and P-2018 who also observed the presence of children at Anti-Balaka checkpoints and bases – it is submitted that the Chamber should be convinced that at least *some* young children under 15 were indeed in the Anti-Balaka armed group under YEKATOM's command.

Looking for food and looting

104. Children in the YEKATOM Group were either ordered to pillage and loot, or did so out of necessity for survival due to a lack of food within the Anti-Balaka group they were in. On one occasion, [REDACTED] broke down the gate to a poultry farm

⁴⁰⁴ See P-1974: [T-227](#), p. 19, line 8 to p. 20, line 6 (Conf).

⁴⁰⁵ See P-1974: [T-227](#), p. 19, line 8 to p. 20, line 6 (Conf).

⁴⁰⁶ See P-1974: [T-227](#), p. 22, lines 3-10 (Conf).

⁴⁰⁷ See P-1974: [T-227](#), p. 22, lines 19-22 (Conf).

⁴⁰⁸ See P-1577: [T-027](#), p. 29, line 22 to p. 30, line 15 (Conf). See also [CAR-OTP-2130-4425](#) at 4428 and [CAR-OTP-2085-0251](#).

⁴⁰⁹ See P-1577: [T-027](#), p. 31, lines 6-9 (Conf).

⁴¹⁰ See P-1577: [T-027](#), p. 31, line 6 to p. 32, line 13 (Conf).

and told the children to take everything that was on the farm, so they gathered chickens, sold some and ate the rest.⁴¹¹ P-2475 recalls being ordered by [REDACTED] to collect the chicken that was in there.⁴¹² This was to celebrate the events of 1 January, and according to [REDACTED], the children and elements had suffered quite a lot in the bushes.⁴¹³

105. Similarly, V45-0002 recalls looting by using weapons to threaten people and to take their goods by force.⁴¹⁴ The people would be tied up before taking their goods, such as [REDACTED] which would be sold.⁴¹⁵ The money was used to have a party.⁴¹⁶

106. P-2082 recalled that when she spoke with some of the children [REDACTED], they had told her that the older children had instructed them to loot and return with booty.⁴¹⁷ P-0965, [REDACTED] recalls that when some children started stealing, for those that were caught, they were beaten.⁴¹⁸ Meanwhile, P-2476, a former child soldier, recalls that when Muslims were evacuated from [REDACTED] elements were pillaging.⁴¹⁹

107. According to P-2475, the children in the group also participated in looting that was condoned by YEKATOM.⁴²⁰ YEKATOM told his elements to go and loot livestock from [REDACTED] to both sell and keep for their own consumption.⁴²¹ [REDACTED] broke down the door to the farm and told their elements to take the livestock.⁴²² According to V45-0001, children were asked to attack and rob Pheul people.⁴²³ He

⁴¹¹ See P-2475: [T-129](#), p. 64, lines 2-6 (Conf).

⁴¹² See P-2475: [T-129](#), p. 62, line 23 to p. 63, line 5 (Conf).

⁴¹³ See P-2475: [T-133](#), p. 26, line 18 to p. 28, line 7 (Conf).

⁴¹⁴ See V45-0002: [T-247](#), p. 26, lines 4-5 (Conf).

⁴¹⁵ See V45-0002: [T-247](#), p. 27, lines 2-3 (Conf).

⁴¹⁶ See V45-0002: [T-247](#), p. 27, lines 11-12 (Conf).

⁴¹⁷ See P-2082: [T-219](#), p. 16, line 19 to p. 17, line 4 (Conf).

⁴¹⁸ See P-0965: [T-061](#), p. 54, line 22 to p. 55, line 6 (Conf).

⁴¹⁹ See P-2476: [T-213](#), p. 14, lines 9-16 (Conf).

⁴²⁰ See P-2475: [T-133](#), p. 27, lines 5-14 (Conf).

⁴²¹ See P-2475: [T-133](#), p. 27, lines 10-14 (Conf). See also [CAR-OTP-2109-0452-R02](#), para. 50.

⁴²² See P-2475: [T-133](#), p. 28, lines 4- 7 (Conf).

⁴²³ See V45-0001: [T-245](#), p. 23, lines 21- 23 and p. 24, lines 5-8 (Conf).

clarified that this approach was more common amongst child soldiers.⁴²⁴ In particular, children [REDACTED] to approach Pheul and then to attack them in order to take away their possessions.⁴²⁵ V45-0002 explained that they would stop people and threaten them with their weapons before robbing them.⁴²⁶ They would take items such as [REDACTED] from people they mugged and sell them for cash.⁴²⁷

108. From the above testimonies, stealing and looting appears prevalent within the YEKATOM Group. This could be stealing and looting sanctioned by YEKATOM himself, or unauthorised due to the difficult living conditions and lack of food as demonstrated below, which made the children resort to desperate means for survival.

Transporting goods and ammunitions

109. Children in the YEKATOM Group were used to transport goods and ammunition to assist the chiefs and adult elements. For example, during the 5 December 2013 Attack, the children in the groups coming from [REDACTED] were carrying the ammunition for the firearms used by the chiefs.⁴²⁸ [REDACTED] carried a so-called *dolodolo*, which was a vest with pockets for the ammunition of the AK-47.⁴²⁹ The task of the children carrying the *dolodolo* was to supply the chiefs with the ammunition.⁴³⁰

110. Most children in the group had machetes and knives, and P-2475 himself had a sword, a knife and a "*dolodolo*".⁴³¹ P-2475 explained that the children would carry the ammunition behind the chiefs in order to 'feed' them with ammunition, and their task was to also hit the Muslims with machetes.⁴³² P-2475 wore a *gris-gris* in the form of a

⁴²⁴ See V45-0001: [T-245](#), p. 21, lines 2-4 (Conf).

⁴²⁵ *Ibid.*

⁴²⁶ See V45-0002: [T-247](#), p. 25, lines 15-19 (Conf).

⁴²⁷ See V45-0002: [T-247](#), p. 25, lines 11-17 (Conf).

⁴²⁸ See P-2475: [T-129](#), p. 44, lines 13-15 (Conf).

⁴²⁹ See P-2475: [T-129](#), p. 44, lines 4-10 (Conf).

⁴³⁰ See P-2475: [T-129](#), p. 44, lines 13-21 (Conf).

⁴³¹ See P-2475: [T-129](#), p. 43, lines 4-23 (Conf).

⁴³² See P-2475: [T-129](#), p. 44, lines 1-9 and p. 45, lines 2-6 (Conf). See also [T-133](#), p. 12 line 1 to p. 13, line 2 (Conf).

key attached to his arm.⁴³³ The role of the children was to follow the chiefs, and to “do something with the people who were being attacked and who received a bullet” in that they were to kill them with knives and machetes.⁴³⁴

Use as sexual slaves

111. Female children were specifically used as sexual slaves.⁴³⁵ Regarding the presence of female child soldiers and the issue of sexual abuse, P-2475 recalls that there were about 10-20 females in the Anti-Balaka group in [REDACTED].⁴³⁶ P-2475 recalls that [REDACTED], and other women in the Anti-Balaka also had relationships with the chiefs and would be “wives” of the Anti-Balaka.⁴³⁷ While [REDACTED] was at least [REDACTED] years old, there were some girls who were only 14, 15 or 16 years old.⁴³⁸ This accords with P-0965’s testimony, [REDACTED] who observed that there were girls in the Anti-Balaka armed groups, who were sexually abused and ended up as the wife of the leader.⁴³⁹ Sometimes these “wives” were with the leader by force and not because they wanted to be the wife.⁴⁴⁰ Furthermore, P-0808 heard rumours that perhaps children involved with the Anti-Balaka were subject to mistreatment or sexual violence.⁴⁴¹

112. [REDACTED].⁴⁴² However, subsequently they were raped by Anti-Balaka elements.⁴⁴³

113. The testimony of these witnesses all points in the same direction – that young girls were indeed subject to sexual violence and abuse within the YEKATOM Group.

⁴³³ See P-2475: [T-129](#), p. 44, lines 16-18 (Conf).

⁴³⁴ See P-2475: [T-129](#), p. 44, line 23 to p. 45, line 1 (Conf); [T-133](#), p. 6, lines 9-13 (Conf).

⁴³⁵ See P-1974: [T-228](#), p. 27, lines 3-22 (Conf).

⁴³⁶ See P-2475: [T-129](#), p. 24, line 15 to p. 25, line 18 (Conf).

⁴³⁷ See P-2475: [T-129](#), p. 26, line 23 to p. 27, line 11 (Conf).

⁴³⁸ See P-2475: [T-129](#), p. 27, lines 19-23 (Conf).

⁴³⁹ See P-0965: [T-061](#), p. 58, lines 8-12 (Conf).

⁴⁴⁰ *Ibid.*

⁴⁴¹ See P-0808: [T-070](#), p. 6, lines 14-19 (Conf).

⁴⁴² See V45-0001: [T-245](#), p. 13, lines 11-22 (Conf).

⁴⁴³ See V45-0001: [T-245](#), p. 17, lines 1-3 (Conf).

Traditional type practices and use as mystical shields

114. [REDACTED].⁴⁴⁴ [REDACTED].⁴⁴⁵ [REDACTED].⁴⁴⁶ [REDACTED].⁴⁴⁷
[REDACTED].⁴⁴⁸ [REDACTED].⁴⁴⁹ [REDACTED].⁴⁵⁰ [REDACTED].⁴⁵¹

115. [REDACTED].⁴⁵² V45-0001 testified that the majority of these girls were older than himself, but some girls were also his age based on his personal perception.⁴⁵³
[REDACTED].⁴⁵⁴

116. [REDACTED].⁴⁵⁵ [REDACTED].⁴⁵⁶

117. [REDACTED].⁴⁵⁷ [REDACTED].⁴⁵⁸

118. [REDACTED].⁴⁵⁹ [REDACTED].⁴⁶⁰ [REDACTED].⁴⁶¹

119. [REDACTED].⁴⁶² [REDACTED].⁴⁶³ [REDACTED].⁴⁶⁴ [REDACTED].⁴⁶⁵
[REDACTED].⁴⁶⁶

⁴⁴⁴ See V45-0001: [T-245](#), p. 8, lines 19-20 (Conf).

⁴⁴⁵ See V45-0001: [T-245](#), p. 6, line 24 to p. 7, line 1 (Conf). The transcript is incorrectly translated to “uncle” at the start, but this is later corrected to “grandfather”. See p. 7, lines 19-22 (Conf).

⁴⁴⁶ See V45-0001: [T-245](#), p. 6, lines 19-23 (Conf).

⁴⁴⁷ See V45-0001: [T-245](#), p. 7, lines 1-5 (Conf).

⁴⁴⁸ See V45-0001: [T-245](#), p. 7, lines 4-10 (Conf).

⁴⁴⁹ See V45-0001: [T-245](#), p. 9, lines 12-16 (Conf).

⁴⁵⁰ See V45-0001: [T-245](#), p. 9, lines 19-23 (Conf).

⁴⁵¹ See V45-0001: [T-245](#), p. 10, lines 1-5 (Conf).

⁴⁵² See V45-0001: [T-245](#), p. 9, lines 7-8 and p. 10, lines 8-10 (Conf).

⁴⁵³ See V45-0001: [T-245](#), p. 12, lines 3-10 (Conf).

⁴⁵⁴ See V45-0001: [T-245](#), p. 12, lines 3-5 (Conf).

⁴⁵⁵ See V45-0001: [T-245](#), p. 14, lines 18-21 (Conf).

⁴⁵⁶ See V45-0001: [T-245](#), p. 20, lines 18-21 (Conf).

⁴⁵⁷ See V45-0001: [T-245](#), p. 13, lines 11-22 (Conf).

⁴⁵⁸ See V45-0001: [T-245](#), p. 13, lines 11-22 (Conf).

⁴⁵⁹ See V45-0001: [T-245](#), p. 14, lines 22-24 and p. 15, lines 1-18 (Conf).

⁴⁶⁰ See V45-0001: [T-245](#), p. 15, lines 17-18 (Conf).

⁴⁶¹ See V45-0001: [T-245](#), p. 18, lines 16-25 (Conf).

⁴⁶² See V45-0001: [T-245](#), p. 16, line 24 to p. 17, line 3 (Conf).

⁴⁶³ See V45-0001: [T-245](#), p. 17, lines 1-3 (Conf).

⁴⁶⁴ See V45-0001: [T-245](#), p. 21, lines 8-12 (Conf).

⁴⁶⁵ See V45-0001: [T-245](#), p. 21, line 19 to p. 22, line 2 (Conf).

⁴⁶⁶ See V45-0001: [T-245](#), p. 22, lines 2-6 (Conf).

f) Treatment of children under 15 in the YEKATOM Group

Traditional type initiation and being ordered to kill or torture prisoners

120. According to the evidence on the record, once in the group, children were first required to undergo a traditional type initiation process to ensure their protection against enemies while in the group, and second to also prove themselves by undergoing certain actions to prove that they were willing to fight the enemy, in particular by being ordered to kill or torture prisoners.

121. [REDACTED].⁴⁶⁷ [REDACTED].⁴⁶⁸ [REDACTED].⁴⁶⁹ [REDACTED].⁴⁷⁰ This vaccine was intended to protect the combatants and keep them out of danger.⁴⁷¹

122. V45-0002, another former child soldier in the YEKATOM Group was vaccinated upon joining in [REDACTED] by having his “fetishes and vulnerability” tested.⁴⁷² If V45-0002 was not struck by a bullet, it meant the fetish was working; the test was even conducted with machetes and on these occasions, the bullets and machetes were prevented.⁴⁷³ The vaccination consisted of having a [REDACTED] an adult put a product on his skin after the military training as a protective layer.⁴⁷⁴

123. Regarding orders to children to kill or torture prisoners, P-2475 testified that on one occasion, he was given a pistol to kill a prisoner.⁴⁷⁵ [REDACTED] insisted that children should not be made to look their victim into the eyes when executing them; he said that the child had to execute the prisoner from behind, aiming for the head.⁴⁷⁶ At the same time, [REDACTED] threatened P-2475 in order to make him do it.⁴⁷⁷

⁴⁶⁷ See V45-0001: [T-245](#), p. 10, lines 13-15 (Conf).

⁴⁶⁸ See V45-0001: [T-245](#), p. 12, line 23 to p. 13, line 7 (Conf).

⁴⁶⁹ See V45-0001: [T-245](#), p. 13, lines 13-20 (Conf).

⁴⁷⁰ See V45-0001: [T-245](#), p. 26, lines 13-20 (Conf).

⁴⁷¹ See V45-0001: [T-245](#), p. 27, lines 3-4 (Conf).

⁴⁷² See V45-0002: [T-247](#), p. 8, lines 11-15 and p. 10, line 2 (Conf).

⁴⁷³ See V45-0002: [T-247](#), p. 8, lines 11-15 (Conf).

⁴⁷⁴ See V45-0002: [T-247](#), p. 15, lines 10-22 (Conf).

⁴⁷⁵ See P-2475: [T-133](#), p. 30, lines 8-12 (Conf).

⁴⁷⁶ *Ibid.*

⁴⁷⁷ See P-2475: [T-133](#), p. 31, line 1 (Conf).

124. P-2475 also testified that on one occasion one of the children in the group was asked to “*engrave his signature*” on a Muslim before the Muslim was taken to the base to be killed, and the child cut off this man’s ear.⁴⁷⁸ [REDACTED] would not allow children to kill Muslims with knives. They were only allowed to stab them with knives or to kill them with a firearm.⁴⁷⁹ [REDACTED] were two children who were given a firearm to kill.⁴⁸⁰ [REDACTED] was a child like [REDACTED], who joined the group after the 5 December 2013 Attack.⁴⁸¹

125. P-2476, another former child soldier in the Anti-Balaka group, had heard of the initiation procedure of new Anti-Balaka recruits.⁴⁸² He testified that the person joining the group must be initiated, bring a *gris-gris* and bear scars.⁴⁸³ They had to be “*completely armoured*”.⁴⁸⁴

Indoctrination and instrumentalization

126. According to the evidence on the record, children in the YEKATOM Group were indoctrinated and brainwashed with principles of violence and the need to defend the honour of the country, in order to benefit the Anti-Balaka objectives.

127. P-2475, a former child soldier in the YEKATOM Group, recalls that upon joining, he was encouraged by the elements to “*free our country*” and encouraged him to fight.⁴⁸⁵ There were occasions where the elements at the base gathered together for the chiefs to motivate them to “*fight for the honour of the country, and above all, fight against the Muslims*”.⁴⁸⁶ These instructions were given by YEKATOM and [REDACTED], the commanding chiefs, who explained that with the arrival of the

⁴⁷⁸ See P-2475: T-129, p. 58, lines 18-21 (Conf).

⁴⁷⁹ See P-2475: T-129, p. 61, lines 2-4 (Conf).

⁴⁸⁰ See P-2475: T-129, p. 62, lines 7-9 (Conf).

⁴⁸¹ See P-2475: T-129, p. 62, lines 14-15 (Conf).

⁴⁸² See P-2476: T-213, p. 48, lines 14-16 (Conf).

⁴⁸³ *Ibid.*

⁴⁸⁴ *Ibid.*

⁴⁸⁵ See P-2475: T-129, p. 15, lines 2-5 (Conf).

⁴⁸⁶ See P-2475: T-129, p. 23, line 24 to p. 24, line 7 (Conf).

Seleka in BANGUI, all the Muslims joined the Seleka and so they must fight against these Muslims⁴⁸⁷ and kill all the Muslims.⁴⁸⁸ These gatherings took place [REDACTED].⁴⁸⁹ There were instructions to kill all Muslims, to beat up the women and to eliminate the men.⁴⁹⁰ P-2475 and other children were instructed by chiefs to put into practice the training they had received in [REDACTED] and the camp as they were soldiers fighting for the country.⁴⁹¹

128. P-2475 remembers that during the fighting, he “*had a sense of fear*” and felt that he had “*lost [his] mind*” because of the drugs consumed. He was on weed, which is what gave him the audacity and courage to act as they did.⁴⁹² Even if a Muslim pleaded for pardon, they did not listen because they were angry against the Muslims who supported the Seleka at the time, and YEKATOM had given them orders to kill all Muslims in their capacity as Seleka accomplices.⁴⁹³

129. In addition, children were influenced by being required to go through the traditional type initiation and to wear *gris-gris*. P-2476 testified that any person joining the group must be initiated and bring *gris-gris* and bear scars.⁴⁹⁴ They had to be “*completely armoured*”.⁴⁹⁵ P-2475 also wore *gris-gris*.⁴⁹⁶ P-1577, [REDACTED] saw children wearing *gris-gris* and carrying knives that had been decorated in the same way as other Anti-Balaka members.⁴⁹⁷

130. According to P-2927, an expert on former child soldiers, the traditional type initiation can constitute a form of indoctrination of children.⁴⁹⁸ This procedure

⁴⁸⁷ See P-2475: T-129, p. 24, lines 9-11 (Conf).

⁴⁸⁸ See P-2475: T-129, p. 37, lines 1-4 (Conf).

⁴⁸⁹ See P-2475: T-129, p. 24, lines 12-14 (Conf).

⁴⁹⁰ See P-2475: T-129, p. 38, lines 2-3 (Conf).

⁴⁹¹ See P-2475: T-129, p. 38, lines 4-22 (Conf).

⁴⁹² See P-2475: T-129, p. 49, lines 14-18 (Conf).

⁴⁹³ See P-2475: T-129, p. 50, lines 1-5 (Conf).

⁴⁹⁴ See P-2476: T-213, p. 48, lines 14-16 (Conf).

⁴⁹⁵ *Ibid.*

⁴⁹⁶ See P-2476: T-213, p. 48, lines 22-23 (Conf).

⁴⁹⁷ See P-1577: T-028, p. 7, lines 6-13 (Conf).

⁴⁹⁸ See P-2927: T-220, p. 8, lines 2-11 (Conf).

included children being forbidden to do certain things, which is part of the “*initiation*” process, and “*forms of trust are created despite the violence*”, which is a way to get the children to belong to the group and not leave.⁴⁹⁹

131. Evidently, the indoctrination of the children by instilling in them a mixture of a sense of fear, violent principles and a need to free the country, propelled certain children to commit acts that no child should ever need to.

Military training and weapons used by children

132. According to P-0888, the phenomenon of child soldiers in the CAR was widespread amongst all armed groups and it was common to see children bearing weapons.⁵⁰⁰ P-0965, [REDACTED] stated that the child soldiers were regarded as soldiers and some of them carried arms such as Kalashnikovs.⁵⁰¹ The children received military training such as how to use a weapon and how to kill,⁵⁰² and were taught to respect their superiors.⁵⁰³

133. Meanwhile, P-2475, himself a former child soldier, testified that military training was provided at the camp to the various elements, which included how to crawl, hide, dismantle a weapon such as AK-47s and MAS-36, and put it back together.⁵⁰⁴ This military training was given to women, children, men and adults in the group.⁵⁰⁵ Everyone was put together for the training, and the children were not separated.⁵⁰⁶ The training was done by Chiefs [REDACTED].⁵⁰⁷ The training would generally be given every two to three days.⁵⁰⁸ It was very hard training because for

⁴⁹⁹ See P-2927: [T-220](#), p. 8, lines 7-11 (Conf).

⁵⁰⁰ See P-0888: [T-120](#), p. 77, lines 9-14.

⁵⁰¹ See P-0965: [T-061](#), p. 54, lines 4-12 (Conf).

⁵⁰² See P-0965: [T-061](#), p. 56, lines 14-18 (Conf).

⁵⁰³ See P-0965: [T-061](#), p. 57, lines 10-12 (Conf).

⁵⁰⁴ See P-2475: [T-129](#), p. 21, lines 10-22 (Conf). V45-0002 also completed military training in [REDACTED]; See V45-0002: [T-247](#), p. 11, line 22 to p. 13, line 23 (Conf).

⁵⁰⁵ See P-2475: [T-129](#), p. 21, lines 14-24 (Conf).

⁵⁰⁶ See P-2475: [T-129](#), p. 21, line 21 to p. 22, line 5 (Conf).

⁵⁰⁷ See P-2475: [T-129](#), p. 22, lines 7-8 (Conf).

⁵⁰⁸ See P-2475: [T-129](#), p. 22, lines 13-15 (Conf).

example, if they were crawling and not moving quickly enough they would be beaten and this was justified as the method of training to make them become a man who is physically strong.⁵⁰⁹ Another example of this tough training included being beaten with canes if they were not running fast enough during the exercises, like in the army.⁵¹⁰ YEKATOM, and [REDACTED] would come to watch the training.⁵¹¹

134. [REDACTED].⁵¹² [REDACTED].⁵¹³

135. P-2475 remembers some of the other children in the camp he was with, in particular [REDACTED].⁵¹⁴ They did a training together, and P-2475 remembers him as one of the children who operated with him and would stab people with knives.⁵¹⁵ They were in the same group at [REDACTED], and P-2475 thinks they had the same age.⁵¹⁶ P-1339, [REDACTED] recognises [REDACTED],⁵¹⁷ and is again, referred to as the [REDACTED] amongst the elements seen in the video.⁵¹⁸

136. Another child P-2475 recalls from his time in the Anti-Balaka was [REDACTED], who was telling the other children that he had killed a person.⁵¹⁹ P-2475 and [REDACTED] lived together in [REDACTED].⁵²⁰

137. P-2475 recalls wearing military uniforms in [REDACTED] which were distributed to them by the chiefs.⁵²¹ The uniforms were military green in colour, like the type worn by elements of the presidential guard.⁵²² There were also different

⁵⁰⁹ See P-2475: [T-129](#), p. 22, lines 18-20 (Conf).

⁵¹⁰ See P-2475: [T-129](#), p. 22, lines 23-25 (Conf).

⁵¹¹ See P-2475: [T-129](#), p. 23, lines 1-4 (Conf).

⁵¹² See P-2475: [T-129](#), p. 33, lines 23-25 (Conf).

⁵¹³ See P-2475: [T-130](#), p. 16, lines 12-15 and p. 17 lines 13-14 (Conf).

⁵¹⁴ See P-2475: [T-130](#), p. 6, lines 7-10 (Conf).

⁵¹⁵ See P-2475: [T-130](#), p. 6, lines 5-10 (Conf).

⁵¹⁶ See P-2475: [T-130](#), p. 6, lines 19-25 (Conf).

⁵¹⁷ See P-1339: [T-155](#), p. 47, lines 8-11 (Conf) in which a video [CAR-OTP-2065-3843](#) is shown.

⁵¹⁸ See P-1339: [T-155](#), p. 47, lines 20-24 (Conf). See also [T-155](#), p. 50, lines 3-6 (Conf) regarding the Presiding Judge's clarification of the matter.

⁵¹⁹ See P-2475: [T-130](#), p. 8, line 12 to p. 9, line 19 (Conf).

⁵²⁰ See P-2475: [T-130](#), p. 9, line 25 to p. 10, line 1 (Conf).

⁵²¹ See P-2475: [T-130](#), p. 16, line 16 to p. 17, line 9 and p. 17, lines 17-21 (Conf).

⁵²² See P-2475: [T-130](#), p. 16, line 16 to p. 17, line 9 (Conf).

coloured berets to wear.⁵²³ P-2475 remembers that the uniform he received was too large for him, but he had to wear it like that.⁵²⁴

138. [REDACTED].⁵²⁵ [REDACTED].⁵²⁶ [REDACTED].⁵²⁷ [REDACTED].⁵²⁸ Meanwhile, P-2476, a former child soldier, was given a knife by the leaders to protect the camp and instructed that no one can enter.⁵²⁹ However, he was not taught how to attack with the knife.⁵³⁰

139. From the above testimonies, it is clear that children were provided with weapons such as knives, machetes and guns. They were also provided with military training on how to use these to varying degrees and for different purposes – some of these which were lethal and bloody, in order to further the Anti-Balaka objectives.

Living conditions: Discipline, punishments and use of drugs

140. According to the evidence on the record, living conditions were extremely difficult for the children in the YEKATOM Group. They were forced to consume drugs to distort their perception of reality, while violent, harsh and disproportionate punishments occurred for any form of disobedience. P-1577 observed that the areas in the CAR where he saw the child soldiers were “*very poor and very rural*”, with malnourishment as a general condition so the condition of the children was not positive.⁵³¹ There was also a “*very authoritarian way*” of dealing with the youth which was “*rough*”.⁵³² According to P-0808, [REDACTED] the real problem in the CAR for young people was their enrolment in armed groups and becoming armed elements, in which the consumption of drugs is prevalent, and needs to be taken seriously.⁵³³

⁵²³ *Ibid.*

⁵²⁴ See P-2475: T-130, p. 19, line 25 to p. 20, line 2 (Conf).

⁵²⁵ See P-2475: T-129, p. 60, lines 1-8 (Conf).

⁵²⁶ See P-2475: T-129, p. 60, lines 9-15 (Conf).

⁵²⁷ See P-2475: T-129, p. 61, lines 2-8 (Conf).

⁵²⁸ See P-2475: T-129, p. 61, lines 15-25 (Conf).

⁵²⁹ See P-2476: T-213, p. 49, lines 17-19 (Conf).

⁵³⁰ *Ibid.*

⁵³¹ See P-1577: T-028, p. 5, lines 8-23 (Conf).

⁵³² See P-1577: T-028, p. 6, lines 7-13 (Conf).

⁵³³ See P-0808: T-070, p. 5, line 25 to p. 6, line 9.

141. The living conditions at [REDACTED] were difficult, and the elements sometimes just ate cassava leaves with palm oil, as there was “*no meat or nothing*”.⁵³⁴ There was a lot of complaining amongst YEKATOM’s elements.⁵³⁵ P-1839 stated that there was never a solution to these difficult living conditions.⁵³⁶ Some elements stole things belonging to others and sold them, so that they could send money to their respective families, and there was a lot of frustration among the group.⁵³⁷

142. According to V45-0001, he had “*a lot to say*” about the treatment of young people in the YEKATOM Group.⁵³⁸ These young people had different duties and were regarded as child soldiers, while others were sent on errands to buy items outside of the camp.⁵³⁹ Some young people also participated in battle, and some were older and some were younger than V45-0001.⁵⁴⁰ There were also some child soldiers the same age as V45-0001 himself, who died during battle in [REDACTED], while others were wounded.⁵⁴¹

143. P-2475, another former child soldier in the YEKATOM Group, testified that when he joined the movement, he recalls feeling “*scared*” as he was the youngest there and some elements were smoking weed and behaving badly.⁵⁴² P-2475 recalls that at [REDACTED] it was not easy to find food.⁵⁴³ They ate fruit, paw paws and sometimes after two days there were given some cassava leaves with some cassava roots, but did not eat properly.⁵⁴⁴ They could not eat every day.⁵⁴⁵ Cassava leaves were sometimes

⁵³⁴ See P-1839: [T-171](#), p. 21, lines 12-14 (Conf).

⁵³⁵ See P-1839: [T-171](#), p. 21, lines 23-25 (Conf).

⁵³⁶ See P-1839: [T-171](#), p. 22, line 3 (Conf).

⁵³⁷ See P-1839: [T-171](#), p. 22, lines 4-24 (Conf).

⁵³⁸ See V45-0001: [T-245](#), p. 31, lines 11-12 (Conf).

⁵³⁹ See V45-0001: [T-245](#), p. 31, lines 12-16 (Conf).

⁵⁴⁰ See V45-0001: [T-245](#), p. 32, lines 6-9 (Conf).

⁵⁴¹ See V45-0001: [T-245](#), p. 32, lines 13-20 (Conf).

⁵⁴² See P-2475: [T-129](#), p. 14, lines 22-24 (Conf).

⁵⁴³ See P-2475: [T-129](#), p. 17, lines 15-23 (Conf).

⁵⁴⁴ *Ibid.*

⁵⁴⁵ See P-2475: [T-129](#), p. 17, lines 15-23 (Conf).

eaten without oil, and along with the yams, papayas or whatever they collected in the farms of farmers.⁵⁴⁶

144. P-2475 stated that he was given tablets to consume such as Tramol, weed and “red tablets”, which gave him strength and he would feel less hungry.⁵⁴⁷ Other addictive substances given to him included cigarettes, menthol and marijuana, and these were given to him by the Anti-Balaka chiefs [REDACTED] so the children and elements could “stay in form”.⁵⁴⁸ P-2475 stated that while these chiefs distributed the addictive substances to them, it was the “highest ranking chiefs” who asked for these drugs to be distributed both the children and elements.⁵⁴⁹

145. Regarding these drugs, P-2475 stated that he hesitated a lot take them but he was convinced by the elements that it would make them “overcome timidity and no longer be afraid”.⁵⁵⁰ These drugs were given to everyone in the group, which included around 10 children in the base, who were just as small as himself, so he concluded they were children.⁵⁵¹ These children included [REDACTED].⁵⁵² V45-0002 was also provided with Tramadol after [REDACTED].⁵⁵³ V45-0002 testified that they consumed Indian cannabis and Tramal on a daily basis.⁵⁵⁴ V45-0001 also corroborated the use of drugs such as “Tramole”, which is white and a type of cigarette and cannabis, by “all the elements who were part of the armed group”, which undoubtedly includes children.⁵⁵⁵

146. P-2475 started consuming the drugs and they “were like food we would eat every day”, and he noticed they did not eat like they were supposed to but took more

⁵⁴⁶ See P-2475: [T-132](#), p. 6, lines 18-20 (Conf).

⁵⁴⁷ See T-2475: [T-129](#), p. 18, lines 11-13 and p. 51, line 22 to p. 52, line 2 (Conf). V45-0001 was also provided with drugs. See V45-0001: [T-245](#), p. 33, lines 1-9 (Conf).

⁵⁴⁸ See P-2475: [T-129](#), p. 18, lines 11-18 (Conf).

⁵⁴⁹ See P-2475: [T-129](#), p. 18, lines 20-23 and p. 19, lines 15-19 (Conf).

⁵⁵⁰ See P-2475: [T-129](#), p. 19, line 25 to p. 20, line 3 (Conf).

⁵⁵¹ See P-2475: [T-129](#), p. 19, lines 1-21 (Conf).

⁵⁵² See P-2475: [T-129](#), p. 19, lines 6-8 (Conf).

⁵⁵³ See V45-0002: [T-247](#), p. 14, lines 3-10 (Conf).

⁵⁵⁴ See V45-0002: [T-247](#), p. 36, lines 15- 23 (Conf).

⁵⁵⁵ See V45-0001: [T-245](#), p. 33, lines 1-9 (Conf).

drugs.⁵⁵⁶ P-2475 took drugs the whole time he was with the Anti-Balaka and even when he was with [REDACTED], he was still taking drugs, and only stopped afterwards.⁵⁵⁷

147. P-2475 specifically recalls taking these drugs every day, particularly before the 5 December 2013 Attack so they could be more courageous.⁵⁵⁸ P-2475 remembers another child soldier, [REDACTED].⁵⁵⁹ Likewise, after V45-0002 [REDACTED], he did not reflect on this because he was on drugs so felt “*strong*”.⁵⁶⁰

148. According to P-2475, all elements of the Anti-Balaka that had been stationed and trained at [REDACTED]. No one stayed behind; all women, children and men who made up the group moved towards [REDACTED] and fought.⁵⁶¹ Everyone was carrying a machete or knife; only the chiefs had firearms.⁵⁶² The witness stated that, at the time, he felt strong [REDACTED] because he had been given drugs and the effect of the drugs was to take away the fear.⁵⁶³

149. P-2475 further describes his interactions with other children. They would smoke cigarettes and take Tramol together. Someone may propose that they look for papayas when hungry, and they often wondered what would happen during their stay in the bush and if they would ever be able to leave the movement and be free again.⁵⁶⁴ V45-0002 recalled that the children built small huts for their leaders but for themselves, they slept under the trees in the forest on palm leaves.⁵⁶⁵

150. P-2475 describes being physically injured during his time with the Anti-Balaka movement by [REDACTED] who took out a knife and hit him on his [REDACTED]

⁵⁵⁶ See P-2475: [T-129](#), p. 20, lines 4-6 (Conf).

⁵⁵⁷ See P-2475: [T-129](#), p. 20, lines 9-12 (Conf).

⁵⁵⁸ See P-2475: [T-129](#), p. 45, lines 7-11 and p. 7, lines 1-19 (Conf).

⁵⁵⁹ See P-2475: [T-131](#), p. 13, lines 1-7 (Conf).

⁵⁶⁰ See V45-0002: [T-247](#), p. 21, line 2 to p. 22, line 13 (Conf).

⁵⁶¹ See P-2475: [T-129](#), p. 39, lines 9-10 (Conf).

⁵⁶² See P-2475: [T-129](#), p. 44, lines 14-15 and p. 45, lines 2-3 (Conf).

⁵⁶³ See V45-0002: [T-247](#), p. 21, lines 21-24 (Conf).

⁵⁶⁴ See P-2475: [T-129](#), p. 30, lines 13-20 (Conf).

⁵⁶⁵ See V45-0002: [T-247](#), p. 16, lines 20-22 (Conf).

which resulted in a serious injury to [REDACTED].⁵⁶⁶ This punishment happened at [REDACTED]. P-2475 was suspected of not honestly reporting the amount of money [REDACTED].⁵⁶⁷

151. P-2475 also recalls seeing children in other sections receiving the same physical punishment as himself.⁵⁶⁸ After trainings, the children would talk to each other, share information and say things such as, “[t]his chief whipped me, look at my scar”, which enabled the children to know what was going on in the different sections.⁵⁶⁹ P-2475 explains that in [REDACTED].⁵⁷⁰

152. P-0965, [REDACTED] stated that psychologically, the children were not in a good place. They were given drugs to consume to get rid of the fear, which he drew an analogy to alcohol – the children were taking a substance that their body was not used to and they “*behave oddly*”, in a way that was not normal.⁵⁷¹ The children were given hemp, and when they took it, this “*motivated them to act*”.⁵⁷² When there were problems with not having enough food, some children would try and take some motorbikes to go out and steal, and if this child was identified, the leader would punish the child and take the object that had been stolen to show that it was not permitted.⁵⁷³ As punishment, the children could be tied up with their hands behind their back, or be whipped a hundred times, or go for a day without food.⁵⁷⁴ This depended on the leader.⁵⁷⁵ Sometimes the children were wounded after the lashes but they could not go to the hospital.⁵⁷⁶

⁵⁶⁶ See P-2475: T-129, p. 28, lines 7-21 (Conf).

⁵⁶⁷ See P-2475: T-132, p. 62, line 9 to p. 65, line 2 (Conf).

⁵⁶⁸ See P-2475: T-129, p. 29, lines 16-25 (Conf).

⁵⁶⁹ See P-2475: T-129, p. 30, lines 5-11 (Conf).

⁵⁷⁰ See P-2475: T-129, p. 30, lines 3-4 (Conf).

⁵⁷¹ See P-0965: T-061, p. 55, line 17 to p. 56, line 1 (Conf).

⁵⁷² See P-0965: T-061, p. 55, lines 5-6 (Conf).

⁵⁷³ See P-0965: T-061, p. 57, lines 15-20 (Conf).

⁵⁷⁴ See P-0965: T-061, p. 57, line 23 to p. 58, line 1 and p. 58, lines 4-7 (Conf).

⁵⁷⁵ See P-0965: T-061, p. 57, line 23 to p. 58, line 1 (Conf).

⁵⁷⁶ See P-0965: T-061, p. 58, lines 4-7 (Conf).

153. P-2476, a former child soldier, said that the living conditions were difficult, and that there was a lack of food and when one element was beaten up, he was “*really scared*” and wanted to leave the movement.⁵⁷⁷ For example, when [REDACTED] stole money from a chief, he was tied up, sprayed with water and beaten.⁵⁷⁸ P-2476 saw this with his own eyes and this “*terrified*” him, so he wanted to leave because of the way [REDACTED] was punished.⁵⁷⁹

154. While P-2476 did not smoke and refused the cigarettes and marijuana offered to him, the other two children he was with in [REDACTED] base smoked.⁵⁸⁰

155. P-0965, [REDACTED] observed that the conditions were difficult for the children as they were not fed properly by the Anti-Balaka, and believes they were “*not feeling very comfortable*”.⁵⁸¹ These children were expecting money or rewards, but upon arrival there was nothing so it was very difficult for them.⁵⁸² Some wanted to go back home but could not because going home by foot was difficult.⁵⁸³ When some children started stealing, for those that were caught, they were beaten.⁵⁸⁴ They could also be punished by the older elements by not being provided with food or water.⁵⁸⁵

156. According to P-1974, [REDACTED] YEKATOM admitted that it would be a relief for the ESF to remove the children from him because they started to become a burden as he had to feed them every day and it was costing at least 20,000 CFA,⁵⁸⁶ so YEKATOM did not have the resources to look after the children.⁵⁸⁷ Feeding the

⁵⁷⁷ See P-2476: [T-213](#), p. 27, lines 4-6 (Conf).

⁵⁷⁸ See P-2476: [T-213](#), p. 27, lines 20-23 (Conf).

⁵⁷⁹ See P-2476: [T-213](#), p. 27, line 20 to p. 28, line 2 (Conf).

⁵⁸⁰ See P-2476: [T-213](#), p. 50, lines 7-13 (Conf).

⁵⁸¹ See P-0965: [T-061](#), p. 54, line 22 to p. 55, line 6 (Conf).

⁵⁸² *Ibid.*

⁵⁸³ *Ibid.*

⁵⁸⁴ *Ibid.*

⁵⁸⁵ See V45-0002: [T-247](#), p. 17, lines 11-14 (Conf).

⁵⁸⁶ See P-1974: [T-227](#), p. 23, line 13 to p. 24, line 8 (Conf).

⁵⁸⁷ See P-1974: [T-229](#), p. 16, lines 21-25 (Conf).

children was difficult when YEKATOM was facing financial difficulties, thus this demobilisation project came at a *“good moment”*.⁵⁸⁸

157. P-1339, [REDACTED] testified that for all new Anti-Balaka recruits, the possession of a phone was prohibited within the Anti-Balaka, and he would remove the phones and record them with the corresponding names.⁵⁸⁹ P-1339 stated that when the Anti-Balaka set themselves up in [REDACTED], two youths approached the group and P-1339 searched them to ensure they did not have a mobile phone on them. These two youths, [REDACTED] had hidden their phones somewhere else that was not apparent to P-1339. P-1339 therefore recorded their names and registered them into the Anti-Balaka group.⁵⁹⁰ Three days after their arrival, one of these youths took out their phone and he was tied up and killed.⁵⁹¹ This element was killed because he was *“caught with his telephone”*, and the *“other boy who was tied up [...] was paralysed a bit on the left arm”*.⁵⁹²

158. It is submitted that the admission from YEKATOM himself regarding the deteriorating difficult conditions the children in his armed group were subjected to, and an agreement to demobilise them should be viewed as convincing evidence that life was extremely difficult in the Anti-Balaka movement. This, in addition to the direct testimonies of P-2475, P-2476 and V45-0002 that drug consumption was prevalent to fill their empty stomachs and to instil a distorted reality, should convince the Chamber of the difficult regime children in the Anti-Balaka were subject to.

⁵⁸⁸ See **P-1974**: [T-227](#), p. 23, line 13 to p. 24, line 8 (Conf). This information was provided to P-2082 by P-2018: See **P-2082**: [T-219](#), p. 22, lines 4-7 (Conf).

⁵⁸⁹ See **P-1339**: [T-157](#), p. 4, line 25 to p. 5, line 17 (Conf).

⁵⁹⁰ *Ibid.*

⁵⁹¹ *Ibid.*

⁵⁹² *Ibid.*

Other forms of physical and mental violence

159. According to the evidence on the record, children in the YEKATOM Group were subjected to other forms of mistreatment and physical and mental violence. For example, [REDACTED].⁵⁹³ [REDACTED].⁵⁹⁴ [REDACTED].⁵⁹⁵

160. Regarding YEKATOM, P-2476 testified that YEKATOM would shout at the children, be very violent and say that “*this was not a place for children*”, which P-2476 perceived as bad treatment.⁵⁹⁶ According to P-2476, he understood YEKATOM’s words to mean that being in the Anti-Balaka group meant that he was not supposed to behave like children, but behave like mature people who were strong.⁵⁹⁷ While YEKATOM was rarely present at [REDACTED] base, he was “*aggressive*” when present.⁵⁹⁸ Meanwhile, V45-0002 was slapped in the face when he first joined the group as he was suspected of being a spy.⁵⁹⁹ V45-0001 testified that YEKATOM “*killed the children in front of [the witness]*”,⁶⁰⁰ and on another occasion YEKATOM killed a Pheul youth in presence of the witness and other children.⁶⁰¹

161. P-2475 was threatened by [REDACTED].⁶⁰² Upon arrival, he was introduced to [REDACTED] who asked him questions, and stated [REDACTED]; and P-2475 felt threatened.⁶⁰³ P-2475 also describes being present at [REDACTED] witnessing [REDACTED] kill people with his own eyes.⁶⁰⁴

⁵⁹³ See V45-0001: T-245, p. 22, lines 2-6 (Conf).

⁵⁹⁴ See V45-0001: T-245, p. 34, lines 23-25 (Conf).

⁵⁹⁵ See V45-0001: T-245, p. 37, line 21 to p. 38, line 1 (Conf).

⁵⁹⁶ See P-2476: T-213, p. 28, lines 10-13 (Conf).

⁵⁹⁷ See P-2476: T-213, p. 28, line 18 to p. 29, line 11 (Conf).

⁵⁹⁸ See P-2476: T-213, p. 29, lines 14-18 (Conf).

⁵⁹⁹ See V45-0002: T-247, p. 14, lines 20-23 (Conf).

⁶⁰⁰ See V45-0001: T-245, p. 34, line 1 (Conf).

⁶⁰¹ See V45-0001: T-245, p. 34, lines 6-8 (Conf).

⁶⁰² See P-2475: T-129, p. 14, lines 11-15 (Conf).

⁶⁰³ See P-2475: T-129, p. 14, lines 5-15 (Conf).

⁶⁰⁴ See P-2475: T-129, p. 26, lines 11-14 (Conf).

162. When one of the Anti-Balaka chiefs, [REDACTED] died after being hit by a bullet, P-2475 was upset and started to cry.⁶⁰⁵ [REDACTED] told P-2475 that he was a man and must be strong. [REDACTED].⁶⁰⁶

163. P-2084, [REDACTED] stated that there were some children who were traumatised since the Anti-Balaka movement as they had seen their parents killed, homes torched and properties destroyed. Some of these children were 14 or 15 years old and were forced to follow the Anti-Balaka movement and did “*various odd jobs and chores*”.⁶⁰⁷

164. Evidently, the children in the YEKATOM Group were subject to a variety of mental and physical violence, as provided by the testimonies of P-1339, P-2475, P-2476, P-0965, P-2084, V45-0001 and V45-0002

g) Demobilisation efforts and agreements

Non-Governmental Organisations and Ministry of Social Affairs Efforts

165. Due to the presence of children in the YEKATOM Group, a number of initiatives by non-governmental organisations (“NGOs”) in collaboration with the CAR Ministry of Social Affairs were implemented to demobilise the children and reintegrate them into society.

166. P-1974, [REDACTED],⁶⁰⁸ [REDACTED].⁶⁰⁹ The mandate of the [REDACTED] was to “*ensure the protection of the child*” against all types of aggressions and negligence.⁶¹⁰ This was similar to UNICEF’s mandate, which was why there was a partnership between UNICEF and [REDACTED] regarding the identify and retrieval

⁶⁰⁵ See P-2475: [T-130](#), p. 37, line 7 to p. 38, line 7 (Conf).

⁶⁰⁶ See P-2475: [T-130](#), p. 47, line 24 to p. 50, line 18 (Conf).

⁶⁰⁷ See P-2084: [T-233](#), p. 4, lines 12-18 (Conf).

⁶⁰⁸ See P-1974: [T-227](#), p. 8, lines 7-10 (Conf).

⁶⁰⁹ See P-1974: [T-227](#), p. 8, lines 13-23 (Conf). See also P-2018: [T-222](#), p. 7, lines 14-24 (Conf).

⁶¹⁰ See P-1974: [T-227](#), p. 9, lines 7-12 (Conf).

of children in the different armed groups such as the Anti-Balaka and the Seleka groups.⁶¹¹ [REDACTED].⁶¹²

167. In [REDACTED], P-1974 received a phone call from [REDACTED].⁶¹³ [REDACTED] explained that there was a mission to [REDACTED] to speak with the Anti-Balaka group set up behind the airport of [REDACTED], and to see where all the Anti-Balaka checkpoints were.⁶¹⁴ During this mission, it was visible that there were children at the Anti-Balaka checkpoints through the entire route from [REDACTED].⁶¹⁵ This UNICEF team also stopped in [REDACTED], where there was a discussion with YEKATOM on the matter of children and their presence in his group, and that they should be removed from this group.⁶¹⁶ P-1974 explained that for this objective to be fulfilled, UNICEF had to be in contact with an NGO as it could work directly in the field with the beneficiaries.⁶¹⁷ The [REDACTED] was enlisted for this purpose, and [REDACTED] it was a project undertaken by the Ministry of Social Affairs.⁶¹⁸ The Ministry of Social Affairs designated [REDACTED] to implement the project,⁶¹⁹ and thus, [REDACTED] was responsible for determining a plan to remove the children attached to the Anti-Balaka groups in [REDACTED], and who found themselves in [REDACTED].⁶²⁰ [REDACTED].⁶²¹

168. P-2082, [REDACTED]. P-2082 recognised the importance of the demobilisation and rehabilitation programme for children as they were very young, and some of them

⁶¹¹ See P-1974: [T-227](#), p. 9, line 9 to p. 10, line 3 (Conf).

⁶¹² See P-1964: [T-227](#), p. 10, line 11 to p. 11, line 2 (Conf).

⁶¹³ See P-1974: [T-227](#), p. 11, line 10 (Conf).

⁶¹⁴ See P-1974: [T-227](#), p. 12, line 12 to p. 14, line 7 (Conf).

⁶¹⁵ *Ibid.*

⁶¹⁶ *Ibid.*

⁶¹⁷ *Ibid.*

⁶¹⁸ *Ibid.*

⁶¹⁹ *Ibid.*

⁶²⁰ *Ibid.*

⁶²¹ See P-1974: [T-229](#), p. 38, lines 1-6 (Conf).

were students who should be continuing their studies.⁶²² [REDACTED].⁶²³
[REDACTED].⁶²⁴ [REDACTED].⁶²⁵ [REDACTED].⁶²⁶

YEKATOM's Acknowledgement of Child Soldiers

169. [REDACTED]⁶²⁷ P-2082 explained that verification and identification of the children involved going into the field to “*check the reliability of the actions undertaken*”.⁶²⁸ Due to this, P-2082 personally saw children in the field with her own eyes and spoke to children herself in [REDACTED].⁶²⁹ Some children she spoke to wanted to leave the group as they wanted to go back to school; while others did not agree as they thought they would become soldiers.⁶³⁰ Some children had joined the group from far away and had no parents.⁶³¹ P-2082 wanted to be more acquainted with the children and would ask questions such as: “*how did you end up here?*”; “*what do you think about this?*”, and would sometimes sing songs with the children and felt that she acted as “*sort of as a mother*”.⁶³² P-2082 had to explain to them that their behaviours and attitudes needed to change, and also outlined the risks to the children’s lives if they decided to stay in the armed group.⁶³³

170. [REDACTED] it was not difficult to convince YEKATOM to release the children because there were around 70 children,⁶³⁴ which was a lot and YEKATOM did not have the resources to feed the children. [REDACTED].⁶³⁵ YEKATOM did not deny that there

⁶²² See P-2082: [T-217](#), p. 8, line 13 to p. 9, line 5 (Conf).

⁶²³ See P-2082: [T-217](#), p. 9, lines 6-12 (Conf).

⁶²⁴ See P-2082: [T-217](#), p. 9, lines 17-23 (Conf).

⁶²⁵ See P-2082: [T-217](#), p. 11, lines 5-18 (Conf).

⁶²⁶ See P-2082: [T-217](#), p. 11, lines 5-18 (Conf).

⁶²⁷ See P-2082: [T-217](#), p. 14, lines 2-14 (Conf).

⁶²⁸ See P-2082: [T-217](#), p. 14, line 21 to p. 15, line 3 (Conf).

⁶²⁹ See P-2082: [T-217](#), p. 14, line 24 (Conf).

⁶³⁰ See P-2082: [T-217](#), p. 14, line 21 to p. 15, line 3 (Conf).

⁶³¹ *Ibid.*

⁶³² See P-2082: [T-217](#), p. 17, lines 6-14 (Conf).

⁶³³ See P-2082: [T-217](#), p. 37, lines 7-25 (Conf).

⁶³⁴ Please note that in [T-217](#), P-2082 refers to “70 children” when she is referring to [CAR-OTP-2071-0279](#), in which there are only 60 children included in the document. CLR1 submits that the actual number of children should be 60, and that there has been a misinterpretation or typographical error in the transcript.

⁶³⁵ See P-2082: [T-217](#), p. 16, lines 18-25 (Conf).

were children as part of his armed group as there was proof and evidence provided by [REDACTED].⁶³⁶ [REDACTED] YEKATOM understood the “stakes” and thus was keen to demobilise the younger children because it was hard to take care of them.⁶³⁷ The official number of children in the agreement was 60.⁶³⁸ [REDACTED].⁶³⁹

171. [REDACTED], YEKATOM confirmed that there were children in his group and that they should be liberated.⁶⁴⁰ P-2084, [REDACTED] recalls a similar agreement, as YEKATOM agreed that these children should go back to [REDACTED] for training and after that, the [REDACTED] came back to [REDACTED] with a number of children and provided them with training kits, so they could learn another vocation such as becoming a mechanic or a seamstress to have another form of income-generating activity.⁶⁴¹ The object of the project was to have zero children remaining in the YEKATOM Group.⁶⁴²

172. [REDACTED].⁶⁴³ [REDACTED].⁶⁴⁴ P-0808 and the civil society organizers of the meeting explained that it was absolutely forbidden for a child to carry weapons and to participate in combat.⁶⁴⁵ It was further explained to the Anti-Balaka commanders that the process of identification and verification was going to take place in the weeks to come.⁶⁴⁶

173. [REDACTED].⁶⁴⁷

⁶³⁶ See P-2082: [T-217](#), p. 25, lines 19-23 (Conf).

⁶³⁷ See P-2082: [T-217](#), p. 26, line 16 to p. 27, line 3 (Conf).

⁶³⁸ See P-2082: [T-218](#), p. 74, lines 8-10 (Conf). The CLR1 submits that the number of children should be 60 as explained *supra* in footnote 634.

⁶³⁹ See P-2082: [T-219](#), p. 18, lines 17-24 and p. 24, lines 21-15 (Conf).

⁶⁴⁰ See P-2018: [T-222](#), p. 33, lines 12-23 and p. 35, lines 12-15 (Conf).

⁶⁴¹ See P-2084: [T-233](#), p. 15, lines 7-10 (Conf).

⁶⁴² See P-1974: [T-227](#), p. 16, lines 4-25 (Conf).

⁶⁴³ See P-2018: [CAR-OTP-2071-0259-R05](#), para. 34.

⁶⁴⁴ *Ibid.*

⁶⁴⁵ *Ibid.*

⁶⁴⁶ See P-2018: [CAR-OTP-2071-0259-R05](#), para. 35.

⁶⁴⁷ See P-2018: [CAR-OTP-2071-0259-R05](#), para. 53.

174. [REDACTED].⁶⁴⁸ According to UNICEF, there were an estimated 157 children in the group, but [REDACTED] needed to go into the field to verify this.⁶⁴⁹ To do this, the [REDACTED] needed to have more information from someone within the group who knew how many children were there in order to implement the project financed by UNICEF.⁶⁵⁰

175. [REDACTED].⁶⁵¹ [REDACTED].⁶⁵² [REDACTED].⁶⁵³

176. [REDACTED].⁶⁵⁴ [REDACTED].⁶⁵⁵ [REDACTED].⁶⁵⁶ The administration of this demobilisation project was discussed and the necessary paperwork was signed.⁶⁵⁷ This included YEKATOM signing a document agreeing to release the children titled “*décharge*”,⁶⁵⁸ and YEKATOM did not dispute the number of 153 children included in the document.⁶⁵⁹ This estimated number of children to be demobilised did not come from [REDACTED] directly,⁶⁶⁰ but was prepared by UNICEF stating that there were about 153 children who were verified.⁶⁶¹

177. [REDACTED].⁶⁶² [REDACTED].⁶⁶³ [REDACTED].⁶⁶⁴ [REDACTED].⁶⁶⁵ P-1974 is not aware of the underlying links or relations between those on the list of 60 eligible children, and YEKATOM.⁶⁶⁶

⁶⁴⁸ See P-1974: [T-227](#), p. 16, lines 4-25 (Conf).

⁶⁴⁹ *Ibid.*

⁶⁵⁰ See P-1974: [T-227](#), p. 16, line 4 to p. 17, line 6 (Conf).

⁶⁵¹ See P-1974: [T-227](#), p. 18, lines 3-13 (Conf).

⁶⁵² See P-1974: [T-227](#), p. 26, lines 10-12 (Conf).

⁶⁵³ See P-1974: [T-227](#), p. 18, lines 3-13 (Conf).

⁶⁵⁴ See P-1974: [T-227](#), p. 24, lines 22-24 (Conf).

⁶⁵⁵ See P-1974: [T-227](#), p. 25, line 7 to p. 26, line 8 (Conf).

⁶⁵⁶ *Ibid.*

⁶⁵⁷ See P-1974: [T-227](#), p. 25, line 23 to p. 26, line 8 (Conf).

⁶⁵⁸ See P-1974: [T-227](#), p. 26, line 1 to p. 27, line 2 (Conf). See also [CAR-OTP-2128-1373](#).

⁶⁵⁹ See P-1974: [T-227](#), p. 27, lines 1-2 (Conf). See also [CAR-OTP-2128-1373](#).

⁶⁶⁰ See P-1974: [T-228](#), p. 36, lines 13-25 (Conf). See also [CAR-OTP-2128-1373](#).

⁶⁶¹ See P-1974: [T-228](#), p. 36, lines 13-25 (Conf).

⁶⁶² See P-1974: [T-227](#), p. 85, lines 16-18 (Conf). See also [CAR-OTP-2071-0279](#).

⁶⁶³ See P-1974: [T-227](#), p. 86, lines 5-8 (Conf).

⁶⁶⁴ See P-1974: [T-228](#), p. 31, lines 3-6 (Conf).

⁶⁶⁵ See P-1974: [T-228](#), p. 31, line 24 to p. 32, line 2 (Conf).

⁶⁶⁶ See P-1974: [T-228](#), p. 32, lines 10-13 (Conf).

178. [REDACTED].⁶⁶⁷ [REDACTED].⁶⁶⁸

Demobilisation Ceremonies

179. There were two ceremonies: [REDACTED].⁶⁶⁹ [REDACTED].⁶⁷⁰

180. P-2084 recalls the ceremony [REDACTED] took place in the presence of local people and children enlisted in the YEKATOM Group.⁶⁷¹ Local authorities such as village chiefs, neighbourhood chiefs, religious leaders and [REDACTED] also attended the ceremony.⁶⁷² There were about 60 children brought together by [REDACTED], and that [REDACTED] did a survey of these children to take them to [REDACTED] for training and to reintegrate them into society.⁶⁷³ [REDACTED].⁶⁷⁴ [REDACTED] YEKATOM cooperated with [REDACTED] and handed over the children at the ceremony.⁶⁷⁵

181. [REDACTED].⁶⁷⁶ The ceremony procedure included YEKATOM signing a document stating he would release children for the demobilisation programme [REDACTED].⁶⁷⁷ YEKATOM signed the document, [REDACTED].⁶⁷⁸ There were 153 children to be released, and before the ceremony, this list of children was provided to YEKATOM, and the number of children was not questioned.⁶⁷⁹

182. The other demobilisation ceremony took place in [REDACTED].⁶⁸⁰ The political and administrative authorities of the area and certain figures of civil society were

⁶⁶⁷ See P-1974: [T-227](#), p. 26, lines 4-8 (Conf).

⁶⁶⁸ See P-1974: [T-227](#), p. 38, line 19 (Conf).

⁶⁶⁹ See P-2082: [T-218](#), p. 70, lines 3-7 (Conf); [T-217](#): p. 33, line 17 to p. 34, lines 1-20 (Conf).

⁶⁷⁰ See P-2082: [T-217](#), p. 35, lines 5-25 (Conf).

⁶⁷¹ See P-2084: [T-233](#), p. 15, lines 11-13 (Conf).

⁶⁷² See P-2084: [T-233](#), p. 18, lines 14-17 (Conf).

⁶⁷³ See P-2084: [T-233](#), p. 15, lines 19-23 (Conf).

⁶⁷⁴ See P-2084: [T-233](#), p. 17, lines 16-19 (Conf).

⁶⁷⁵ See P-1974: [T-229](#), p. 21, line 24 to p. 22, line 1 (Conf).

⁶⁷⁶ See P-2018: [T-222](#), p. 70, lines 21-25 (Conf).

⁶⁷⁷ See P-2018: [T-222](#), p. 72, lines 21-25 (Conf). See also video: [CAR-OTP-2068-0586](#).

⁶⁷⁸ See P-2018: [T-222](#), p. 72, line 21 to p. 73, line 4 (Conf).

⁶⁷⁹ See P-2018: [T-222](#), p. 78, lines 11-21 (Conf).

⁶⁸⁰ See P-1974: [T-227](#), p. 33, lines 11-22 (Conf).

invited to this ceremony.⁶⁸¹ YEKATOM also attended the ceremony, [REDACTED].⁶⁸²
[REDACTED].⁶⁸³ [REDACTED].⁶⁸⁴

183. P-0808 recalled participating in a demobilisation ceremony where there were small children who were working under YEKATOM's supervision present.⁶⁸⁵ P-0808 attended the ceremony in person; he remembered "*international people*" being present at this ceremony, alongside [REDACTED] representative and, Anti-Balaka commanders including YEKATOM. He testified that this ceremony was held in the zone controlled by YEKATOM. According to P-0808, the objective of the program was to identify all the former child soldiers, bring them together and then provide civic education and education on community life, provide psychosocial support for drug consumption and detoxification, and vocational training.⁶⁸⁶ P-0808 estimates that there were not more than 20 children taking part in this ceremony.⁶⁸⁷

184. P-1813, [REDACTED] attended a similar ceremony [REDACTED].⁶⁸⁸ He stated that the Anti-Balaka "*handed over child soldiers to ESF*" during the ceremony and confirmed that the ceremony had been organized between the Anti-Balaka and [REDACTED].⁶⁸⁹ The child soldiers that were being handed over to [REDACTED] were present during the ceremony; there were both boys and girls.⁶⁹⁰

Experience of former child soldiers

185. P-2475 recalls that after the death of [REDACTED], during an assembly in [REDACTED], the child soldiers were asked to stand in the middle. YEKATOM then

⁶⁸¹ *Ibid.*

⁶⁸² See P-1974: [T-227](#), p. 34, line 2 (Conf).

⁶⁸³ See P-1974: [T-227](#), p. 37, lines 2-11 (Conf).

⁶⁸⁴ See P-1974: [T-227](#), p. 34, lines 2-11 (Conf).

⁶⁸⁵ See P-0808: [T-069](#), p. 65, lines 3-10 (Conf).

⁶⁸⁶ See P-0808: [T-070](#), p. 9, line 7 to p. 10, line 1 (Conf).

⁶⁸⁷ See P-0808: [T-070](#), p. 4, lines 9-12 (Conf).

⁶⁸⁸ See P-1813: [CAR-OTP-2083-0279-R01](#), para. 12.

⁶⁸⁹ *Ibid.*

⁶⁹⁰ See P-1813: [CAR-OTP-2083-0279-R01](#), para. 14.

gave instructions for all the child soldiers to go to the roadblocks where they would be picked up in a vehicle heading to [REDACTED] where an NGO was going to take care of them, as it was forbidden for child soldiers to continue fighting.⁶⁹¹ Some children refused to go.⁶⁹² P-2475 and some others went and were taken to [REDACTED].⁶⁹³ After two days, [REDACTED] came and gathered them in [REDACTED].⁶⁹⁴

186. According to P-2475, it was there that YEKATOM decided to release all child soldiers and hand them to [REDACTED] as children were not supposed to be in military operations.⁶⁹⁵ P-2475 spent three months with [REDACTED], received 45,000 CFA and was sent back to his parents.⁶⁹⁶ P-2475 returned home and [REDACTED].⁶⁹⁷ P-2475 was present when YEKATOM signed the document to demobilise the children.⁶⁹⁸ Meanwhile, according to P-2476, he went through a screening process by [REDACTED] to be accepted into the demobilisation programme.⁶⁹⁹ [REDACTED] advised him that children should not be doing the type of work they were doing in the Anti-Balaka, as it was not an appropriate place for children.⁷⁰⁰

187. During the training, the child soldiers arrived in [REDACTED] and were given items to sleep on.⁷⁰¹ [REDACTED].⁷⁰² There was food to eat and they had to hand over their knives.⁷⁰³ On the second day, staff from [REDACTED] asked the children questions about their life in the bush, and what they wanted to do.⁷⁰⁴ P-2475 was happy about this as he was thinking of the things he wanted to do [REDACTED]; while others

⁶⁹¹ See P-2475: [T-130](#), p. 60, line 23 to p. 61, line 4 (Conf).

⁶⁹² See P-2475: [T-130](#), p. 61, line 5 (Conf).

⁶⁹³ See P-2475: [T-130](#), p. 61, lines 5-6 (Conf).

⁶⁹⁴ See P-2475: [T-130](#), p. 61, lines 5-11 (Conf).

⁶⁹⁵ See P-2475: [T-130](#), p. 61, lines 9-11 (Conf).

⁶⁹⁶ See P-2475: [T-130](#), p. 63, lines 15-20 (Conf).

⁶⁹⁷ *Ibid.*

⁶⁹⁸ See P-2475: [T-130](#), p. 67, line 13 to p. 68, line 8 (Conf).

⁶⁹⁹ See P-2476: [T-213](#), p. 37, line 15 to p. 39, line 25 (Conf).

⁷⁰⁰ See P-2476: [T-213](#), p. 51, lines 4-6 (Conf).

⁷⁰¹ See P-2475: [T-130](#), p. 69, line 6 to p. 70, line 10 (Conf).

⁷⁰² *Ibid.*

⁷⁰³ *Ibid.*

⁷⁰⁴ See P-2475: [T-130](#), p. 69, lines 10-16 (Conf).

wanted to go back to school.⁷⁰⁵ The children were given a literacy test to complete, and it was evident that some could not read.⁷⁰⁶ [REDACTED].⁷⁰⁷ After this, they were each given [REDACTED].⁷⁰⁸ The training did not materialise.⁷⁰⁹

188. Many children refused to join the demobilisation programme as they regarded themselves as military and remained in the Anti-Balaka group to live in the bush.⁷¹⁰ These children stayed within the movement in [REDACTED], while others left to [REDACTED] to try and make a living.⁷¹¹

VII. CREDIBILITY OF WITNESSES V45-0001 AND V45-0002

1. Submissions common to both Witnesses

a) *Discrepancies between the Victim Application Form and testimony*

189. The CLR1 submits that victim application forms are administrative documents as opposed to written statements or declarations. As such, they are not evidence. They have been collected for a limited purpose only, and there may indeed be errors in the recorded information as has been acknowledged by several Chambers in the past.⁷¹² Indeed, in the article 74 judgment in the *Bemba* case, Trial Chamber III considered that “victims’ application forms themselves are not part of the evidence of [the] case and, in line with Article 74(2), have not been relied upon as evidence in the present Judgment.”⁷¹³

⁷⁰⁵ See **P-2475: T-130**, p. 69, line 6 to p. 70, line 10 (Conf).

⁷⁰⁶ *Ibid.*

⁷⁰⁷ *Ibid.*

⁷⁰⁸ *Ibid.*

⁷⁰⁹ *Ibid.*

⁷¹⁰ See **P-2475: T-130**, p. 68, lines 17-19 (Conf).

⁷¹¹ See **P-2475: T-130**, p. 68, lines 22-24 (Conf).

⁷¹² See the “Decision on the Defence Request in Relation to the Victims’ Applications for Participation in the Present Case” (Pre-Trial Chamber II), [No. ICC-01/09-01/11-169](#), 8 July 2011, para. 9. See also the “Public redacted version of the First decision on the prosecution and defence requests for the admission of evidence, dated 15 December 2011” (Trial Chamber III), [No. ICC-01/05-01/08-2012-Red](#), 9 February 2012, para. 100.

⁷¹³ See the “Judgment pursuant to Article 74 of the Statute” (Trial Chamber III), [No. ICC-01/05-01/08-3343](#), 21 March 2016, para. 272.

189. It is submitted first that discrepancies between the victim application form of a dual status victim and their testimony is not an uncommon issue in the proceedings before this Court. Such discrepancies are often due to the circumstances in which the information was recorded and by whom. Many victims are illiterate and depend on persons assisting them to fill in the form. The person concerned can record the victim's account inaccurately and/or the form was not read back to the victim before signing.

190. Second, regarding V45-0001 and V45-0002, both witnesses stated that their respective victim application forms were filled in by other persons and they were not read back the information before being asked to sign.⁷¹⁴ In particular, they explained how the process was carried out, namely in a rush as there were many other children present.⁷¹⁵

191. Accordingly, the witnesses cannot be held responsible for the inaccuracy of the information recorded, since they were unable to verify the correctness thereof before being asked to sign. Moreover, it needs to be underscored that they are vulnerable victims. It cannot be reasonably expected that young, traumatized persons who have just been asked to recall and relay the traumatic events they have lived through and survived, find the courage to demand that they be given a chance to verify the accuracy of their accounts before signing. The victim application forms are filled out in a setting in which other young persons are present, and those filling in the forms represent persons of authority to the children and young adults who have come to tell their stories. It cannot be underlined enough that especially children who have been enlisted in armed groups and followed orders are unlikely to challenge persons they perceive as an authority, such as the lawyer or NGOs representative, who is assisting them with filling out their victim application form.

⁷¹⁴ See V45-0002: [T-247](#), p. 57, lines 20-24; p. 58, lines 7-23 and p. 59, lines 5-25 (Conf).

⁷¹⁵ See V45-0001: [T-246](#), p. 21, lines 18-25; p. 23, lines 12-16, 22-25; p. 24, lines 1-3 and p. 27, lines 15-18 (Conf).

192. It is, however, also not acceptable to shift the blame to the person filling out the forms. The gatherings of prospective victims are arranged in the most practical and efficient way possible within the reality in the field. Many forms are filled out in one session and the presence of several potential beneficiaries in the same location at the same time creates time pressure and sub-optimal working conditions for those who are recording the different stories, names and dates pertaining to each individual applicant. The CLR1 therefore, respectfully requests that the Chamber acknowledge, like several Chambers in other cases did, that there may indeed be errors in the information recorded in the victim application forms, with no prejudice to the overall credibility of the concerned dual status victims' testimony.

193. The CLR1 recalls that the Presiding Judge has himself noted during the witnesses' testimony that there can be different reasons for the discrepancies in the victim application forms and that it would be advisable to take the utmost care when collecting the victims' applications and afterwords to read out what has been written down.⁷¹⁶

b) General issue with probative value of the statements of the Defence rule 68(2)(b) witnesses

194. The legal framework of the Court does not allow for anonymous testimony. Thus, the identity of a witness must be properly established either when they appear in person before the relevant Chamber or are called under rule 68(2)(b) of the Rules during the recording of their statements. As regards the 18 rule 68(2)(b) witnesses called by the Defence,⁷¹⁷ no identification documents of these witnesses were collected and attached to their respective statements. It is submitted that since these witnesses were called under rule 68(2)(b), not only their respective identification documents were required to be produced but also those documents had to be shown to the

⁷¹⁶ See **V45-0001**: [T-246](#), p. 75, lines 11-20 (Conf).

⁷¹⁷ The concerned witnesses are: D29-6040, D29-6046, D29-6050, D29-6049, D29-6034, D29-6045, D29-6047, D29-6028, D29-6031, D29-6022, D29-6043, D29-6044, D29-6033, D29-6039, D29-6046, D29-6022, D29-6030 and D29-6024.

witnesses to ascertain them during the recording of their statements, which was not the case as regards the concerned 18 witnesses.

195. Since the Defence submitted some associated material either as part of some witnesses' statements or via bar table, the CLR1 contends as follows. As regards D29-6040, the picture of an individual in Item CAR-D29-0009-0794 cannot substitute a missing identification document of the witness. As regards D29-6046, [REDACTED] in Item CAR-D29-0009-0737 cannot substitute a missing identification document of the witness.

196. As regards D29-6043 and D29-6044, the Chamber admitted the witnesses' statements but did not admit their identification documents⁷¹⁸ as an integral part of their statement, because they were not shown to the witnesses during the recording of their statements.⁷¹⁹ The subsequent recognition of Items CAR-D29-0015-0051 and CAR-D29-0015-0053 as formally submitted via the bar table⁷²⁰ does not cure the issue. In fact, the documents were not confirmed by the individuals who signed the statements under the names of respectively [REDACTED].

197. Accordingly, the CLR1 contends that the identity of the above witnesses has not been duly established as part of the recording of their respective statements, their statements therefore amount to an anonymous testimony, and thus have no probative value, and must not be relied upon by the Chamber. The CLR1 is cognizant that under rule 68(2)(b)(iii) of the Rules the person witnessing the declaration, in the present case a Registry staff member, must verify *inter alia* that the person making the declaration is the person identified in the prior recorded testimony. However, the CLR1 posits that in the absence of an identification document on the record produced during the recording of statements and ascertained by the witness during the interview, the

⁷¹⁸ See **D29-6043**: [CAR-D29-2015-0051](#) and **D29-6044**: [CAR-D29-0015-0053](#).

⁷¹⁹ See the "Decision on the Yekatom Defence Requests for Leave to Add Six Witnesses and Submission under Rule 68(2)(b) of the Rules" (Trial Chamber V), [No. ICC-01/14-01/18-2598-Conf](#), 18 July 2024, paras. 38 and 40.

⁷²⁰ See the "Decision on the Yekatom Defence Request for Leave to Add 7 Items and Sixth Request for Submission from the Bar Table (Miscellaneous Documents)" (Trial Chamber V), [No. ICC-01/14-01/18-2689-Conf](#), 13 September 2024, para. 38.

Registry is in no position to ascertain that the person making the declaration is indeed the one who signed the statement sought for admission into evidence as Registry staff was obviously not present during the recording of the relevant statement. He also posits that as a matter of the integrity and fairness of the proceedings the Chamber and the other participants must have been provided with copies of the identification documents of the concerned witnesses to enable the participants to test their reliability given in particular the issues with identification documents in the CAR, being a live issue in the present case.

2. Specific submissions regarding V45-0001

a) V45-0001's personal information

198. V45-0001 stated during his testimony that [REDACTED]⁷²¹ and his parents are [REDACTED].⁷²² This information is also reflected in Items V45-00000005 and V45-00000006. The witness's name, his day and year of birth, and the names of his parents are further corroborated by [REDACTED].⁷²³ The witness's name, his day and year of birth, and the name of his mother are also corroborated by Items CAR-V45-00000012 and CAR-V45-00000013.⁷²⁴ The witness's name is also corroborated by Item V45-00000021. The discrepancy in V45-0001's testimony regarding the month of birth – [REDACTED] – is insignificant; it does not have the potential to affect the witness's credibility. A witness is expected to testify based on their best knowledge and recollection, and the witness has consistently believed since childhood that he was born in [REDACTED]. This minor inconsistency does not undermine the overall credibility of the testimony, as the day and year of birth are corroborated by other evidence on the record.

⁷²¹ See **V45-0001**: [T-245](#), p. 6, lines 1-6 (Conf).

⁷²² See **V45-0001**: [T-245](#), p. 42, lines 6-16 (Conf) referring to [V45-00000006](#).

⁷²³ See [CAR-V45-00000020](#).

⁷²⁴ See [CAR-V45-00000012](#) and [CAR-V45-00000013](#).

199. The identity of the witness's parents is attested by Items V45-00000014⁷²⁵ and V45-00000015⁷²⁶ which were provided by [REDACTED]. The Defence did not challenge the year of birth of the witness.

200. The same holds true as regards V45-0001's testimony that he was born in [REDACTED].⁷²⁷ To the witness's knowledge since when he was a child, he was born in [REDACTED]. [REDACTED].⁷²⁸

201. Regarding the witness's place of birth and education, and specifically the discrepancies between V45-0001's testimony, in which he stated that [REDACTED].⁷²⁹ The Defence only inquired about the witness's primary school education, specifically asking where it took place.⁷³⁰ [REDACTED].⁷³¹ No further questions were posed to the witness regarding whether he attended any other elementary or primary schools in other periods of time.

202. With respect to the witness's identity, the CLR1 recalls that the witness denied the Defence's suggestion that [REDACTED].⁷³²

203. Whether the witness may have been enrolled in school in some period of time [REDACTED]⁷³³ does not negate the fact that his real name is [REDACTED], which is corroborated by several documentary evidence, as cited *supra*.⁷³⁴ Accordingly, the Defence's allegations that the witness came to testify under false identity with the alleged objective of being relocated outside the country⁷³⁵ are purely speculative.

⁷²⁵ See [V45-00000014](#).

⁷²⁶ See [V45-00000015](#).

⁷²⁷ See **V45-0001**: [T-246](#), p. 6, lines 1-3 (Conf).

⁷²⁸ See **V45-0001**: [T-246](#), p. 9, line 22 (Conf).

⁷²⁹ See [CAR-V45-00000020](#) and [CAR-V45-00000021](#).

⁷³⁰ See **V45-0001**: [T-246](#), p. 15, lines 15-16 (Conf).

⁷³¹ See **V45-0001**: [T-246](#), p. 15, lines 17-23 (Conf).

⁷³² See **V45-0001**: [T-246](#), p. 60, lines 4-17 (Conf).

⁷³³ See **V45-0001**: [T-246](#), p. 59, lines 20-25 referring to [CAR-D29-0014-0152](#) at 0154.

⁷³⁴ See [V45-00000005](#) and [V45-00000006](#).

⁷³⁵ See **V45-0001**: [T-246](#), p. 6, lines 5-25; p. 7, lines 1-25 and p. 8, lines 1-17 (Conf).

b) V45-0001's substantive testimony

204. It is submitted that the witness's substantive testimony was coherent and consistent. He provided clear and detailed evidence on his own experience within the Anti-Balaka group as well as some information on the experience of other children in the group.⁷³⁶ During its cross-examination the Defence opted to test the substantive testimony of the witness only to a very limited extent, and that in the context of seeking out differences between his victim application form and direct testimony in court.⁷³⁷ The other evidence presented by the Defence to challenge the witness's substantive evidence is too vague and unspecific and has very little if at all probative value. This will be further addressed *infra*.

c) The probative value of the Defence evidence

205. Defence witness D29-6025 is the only witness who appeared before the Court to testify about V45-0001. It is submitted that D29-6025 is an unreliable witness and his testimony has very little probative value.

206. First, while during a long period of time the witness had good relations with [REDACTED],⁷³⁸ who [REDACTED], D29-6025 clearly stated that he came to testify because [REDACTED].⁷³⁹ Accordingly, this 'issue' could have been the main motivation to testify, in order to take a revenge which in itself has an impact on the reliability of his testimony.

207. Second, D29-6025's evidence is mainly hearsay – what he heard from [REDACTED] and other individuals.⁷⁴⁰

⁷³⁶ See V45-0001: [T-245](#), p. 12, lines 3-10; p. 26, lines 8-19 and p. 30, lines 11-16 (Conf).

⁷³⁷ See V45-0001: [T-246](#), p. 70, lines 19-25; p. 71, lines 1-15 and p. 76, lines 18-25 (Conf).

⁷³⁸ See D29-6025: [T-263](#), p. 15, lines 16-19; p. 17, lines 15-25 and p. 18, lines 13-20 (Conf).

⁷³⁹ See D29-6025: [T-263](#), p. 47, lines 14-21 (Conf).

⁷⁴⁰ See e.g. D29-6025: [CAR-D29-0009-0280-R01](#), paras. 41-47; D29-6025: [T-263](#), p. 25, lines 7-12 and p. 26, lines 4-10 (Conf).

208. Third, the witness insisted that he met V45-0001 for the first time in [REDACTED],⁷⁴¹ which is clearly contradicted by several evidence that V45-0001 was born in [REDACTED].⁷⁴² The year of birth was never challenged by the Defence.

209. Fourth, the witness's testimony that he was [REDACTED]⁷⁴³ is contradicted by Items V45-00000020 and V45-00000021 according to which V45-0001 [REDACTED].⁷⁴⁴

210. Furthermore, the Defence called twelve witnesses under rule 68(2)(b) to testify about V45-0001. Thus, their evidence was untested. The witnesses made very vague statements. It is submitted that overall the evidence given by these witnesses has very little if at all probative value.

211. In particular, Witness D29-6034 merely states that V45-0001 is the son of [REDACTED].⁷⁴⁵ [REDACTED].⁷⁴⁶ [REDACTED].⁷⁴⁷ Her statement is further contradicted by Items V45-00000020 and V45-00000021 according to which V45-0001 [REDACTED].⁷⁴⁸

212. D29-7011's [REDACTED].⁷⁴⁹ [REDACTED].

213. Witness D29-6040, [REDACTED].⁷⁵⁰ [REDACTED]⁷⁵¹ is irrelevant because the facts are clear: [REDACTED]. [REDACTED].⁷⁵² [REDACTED].⁷⁵³ Finally, it is worth noting the highly leading manner in which the second interview was conducted.⁷⁵⁴

⁷⁴¹ See D29-6025: [T-263](#), p. 13, lines 1-16 (Conf).

⁷⁴² See [V45-00000005](#) and [V45-00000006](#).

⁷⁴³ See D29-6025: [T-263](#), p. 13, lines 17-19 (Conf).

⁷⁴⁴ See [CAR-V45-00000020](#) and [CAR-V45-00000021](#).

⁷⁴⁵ See D29-6034: [CAR-D29-0009-0372-R01](#), para. 21.

⁷⁴⁶ See D29-6034: [CAR-D29-0009-0372-R01](#), paras. 23-24.

⁷⁴⁷ See [CAR-D29-0014-0165](#).

⁷⁴⁸ See [CAR-V45-00000020](#) and [CAR-V45-00000021](#).

⁷⁴⁹ See D29-7011: [CAR-D29-0005-1016](#) at 0198.

⁷⁵⁰ See D29-6040: [CAR-D29-0009-0782-R01](#), paras. 17, 18, 20.

⁷⁵¹ See D29-6040: [CAR-D29-0009-0782-R01](#), paras. 18, 20.

⁷⁵² See D29-6040: [CAR-D29-0009-0782-R01](#), para. 20.

⁷⁵³ See D29-6040: [CAR-D29-0009-0788-R01](#), para. 16.

⁷⁵⁴ See e.g. D29-6040: [CAR-D29-0009-0788-R01](#), paras. 15-16 and 24.

214. D29-6045, [REDACTED] merely alleges some irregularities in Item CAR-V45-00000021 without however alleging that the document is false.⁷⁵⁵ This testimony does not undermine the probative value of Items CAR-V45-00000020 and CAR-V45-00000021. The same holds true for D29-6047, [REDACTED].⁷⁵⁶ [REDACTED].⁷⁵⁷

215. Further to the fact that no identification document is part of this witness statement, this also undermines his credibility given his statement that [REDACTED].⁷⁵⁸

216. D29-6049, [REDACTED]⁷⁵⁹ [REDACTED].⁷⁶⁰ [REDACTED]⁷⁶¹ does not allow to establish his identity and thus his testimony has no probative value.

217. The Defence presents D29-6043 as [REDACTED]. [REDACTED],⁷⁶² [REDACTED]⁷⁶³ [REDACTED].⁷⁶⁴ [REDACTED],⁷⁶⁵ [REDACTED].⁷⁶⁶ [REDACTED].⁷⁶⁷ [REDACTED].⁷⁶⁸ [REDACTED].

218. Witness D29-6044, [REDACTED],⁷⁶⁹ [REDACTED].⁷⁷⁰ [REDACTED].⁷⁷¹ The testimony in itself has very little if at all probative value.

⁷⁵⁵ See D29- 6045: [CAR-OTP-0009-0713-R01](#), paras. 45-51.

⁷⁵⁶ See D29-6047: [CAR-D29-0009-0729-R01](#), paras. 48-51.

⁷⁵⁷ See D29-6047: [CAR-D29-0009-0732-R01](#), para. 15.

⁷⁵⁸ *Ibid.*

⁷⁵⁹ See D29-6049: [CAR-D29-0009-0759-R01](#), para. 28.

⁷⁶⁰ *Idem*, para. 33.

⁷⁶¹ *Idem*, para. 14.

⁷⁶² See D29-6043: [CAR-D29-0009-0692-R01](#), paras. 28-29.

⁷⁶³ *Idem* para. 32.

⁷⁶⁴ *Ibid.*

⁷⁶⁵ *Idem*, paras. 42-45.

⁷⁶⁶ *Idem*, para. 47.

⁷⁶⁷ *Idem*, paras. 47 and 50.

⁷⁶⁸ *Idem*, paras. 16 and 33.

⁷⁶⁹ See D29-6044: [CAR-D29-0009-0701-R01](#), para. 22.

⁷⁷⁰ *Idem*, para. 33.

⁷⁷¹ *Idem*, paras. 28-32.

219. Finally, as regards Witness D29-6050, [REDACTED].⁷⁷² Her comments regarding Item CAR-V45-00000013⁷⁷³ are therefore irrelevant and should as such be disregarded by the Chamber.

d) Documentary evidence submitted to impeach V45-0001

220. Item CAR-D29-0013-0254,⁷⁷⁴ [REDACTED], recognized as formally submitted is not authentic and reliable as it seems to be inconsistent with the law.⁷⁷⁵ [REDACTED].

221. Moreover, some parts of the document are barely readable, and others seem to have been erased, [REDACTED].⁷⁷⁶ [REDACTED].⁷⁷⁷ Finally, the Defence evidence [REDACTED] as reflected in this Item, is contradicted by the Defence's own witness D29-6043.⁷⁷⁸ It is submitted that, for these reasons Item CAR-D29-0013-0254 has no probative value and should not be relied upon by the Chamber.

222. Item CAR-D29-0013-0265 certifies that [REDACTED].⁷⁷⁹ As stated *supra*, this is contradicted by Items V45-00000020 and V45-00000021 according to which V45-0001 [REDACTED]. Accordingly, the Item has no probative value and should not be relied upon by the Chamber in its deliberations.

223. In light of the above, the CLR1 submits that there is no sufficient evidence on the record with the required probative value of a nature to undermine V45-0001's credibility and the probative value of his testimony, and accordingly the Chamber should rely on the witness's testimony in its determination of YEKATOM's criminal responsibility with respect to Count 29.

⁷⁷² See D29-6050: [CAR-D29-0009-0773-R01](#), para. 19.

⁷⁷³ See D29-6050: [CAR-D29-0009-0773-R01](#), paras. 19-23.

⁷⁷⁴ See V45-0001: [CAR-D29-0013-0254](#).

⁷⁷⁵ See *supra*, VI.2.c)

⁷⁷⁶ See V45-0001: [CAR-D29-0013-0254](#).

⁷⁷⁷ *Ibid.*

⁷⁷⁸ See D29-6043: [CAR-D29-0009-0692-R01](#), paras. 47 and 50.

⁷⁷⁹ See *supra*, VI.2.c).

3. Specific submissions regarding V45-0002

a) V45-0002's personal information

224. V45-0002 stated during his testimony that [REDACTED],⁷⁸⁰ and that his parents are [REDACTED].⁷⁸¹ This is consistent with the information contained in Items CAR-V45-0000008 and CAR-V45-0000009. Moreover, the Defence did not challenge V45-0002's year of birth.

225. Furthermore, V45-0002 denied the Defence's suggestion that his last name is [REDACTED].⁷⁸² The CLR1 submits that even if the real name of his father is [REDACTED], it cannot be assumed that V45-0002's surname is also [REDACTED]. V45-0002 should not be penalised for his absence of knowledge regarding his paternity, when the subject of his family history may not be simple, and he has not been informed otherwise. Accordingly, V45-0002 cannot be blamed for not being aware about the real name of his father. Similarly, whether the witness may have been enrolled in school under name [REDACTED]⁷⁸³ does not negate the fact that he only uses the name [REDACTED], and this is the only name that he is aware of and responds to. In fact, no identification has been put on the record with the name [REDACTED].

226. Accordingly, it is submitted that the Defence's allegation that V45-0002 came to testify under a false identity with the alleged objective to frustrate the YEKATOM Defence team's efforts to discover V45-0002's 'true' identity are purely speculative.⁷⁸⁴

b) V45-0002's substantive testimony

227. The CLR1 submits that V45-0002's substantive testimony was coherent and consistent. He provided clear and detailed evidence on his own experience within the

⁷⁸⁰ See V45-0002: [T-247](#), p. 6, lines 22-24 (Conf).

⁷⁸¹ See V45-0002: [T-247](#), p. 65, lines 7-10 (Conf).

⁷⁸² See V45-0002: [T-248](#), p. 30, lines 8-11 (Conf).

⁷⁸³ See V45-0002: [T-248](#), p. 33, lines 6-20 (Conf).

⁷⁸⁴ See V45-0002: [T-248](#), p. 33, lines 14-19 (Conf).

Anti-Balaka as well as some information on the experience of other children in the group. During the Defence's cross-examination of V45-0002, the Defence only opted to test the substantive testimony of the witness to a very limited extent. For example, there was only limited questioning on V45-0002's experience in the Anti-Balaka group by the Defence,⁷⁸⁵ before it was put to the witness that he was not part of the Anti-Balaka group whose leader was [REDACTED].⁷⁸⁶ The Defence's suggestion that the witness was never part of the Anti-Balaka because his statements are inconsistent with other evidence on the record⁷⁸⁷ are too vague and under-developed.

228. In the CLR1's submission, the other limited evidence presented by the Defence to challenge V45-0002's evidence is too vague and/or unspecific, and has very little if at all, any probative value. This will be discussed in detail further below.

c) The probative value of the Defence evidence

229. D29-6036 is the only witness who appeared before the Court to testify about V45-0002.⁷⁸⁸ The CLR1 submits that his testimony has very little probative value. This witness testified that he never saw an identification document with the name [REDACTED], and never heard V45-0002 introducing himself as [REDACTED].⁷⁸⁹ [REDACTED].⁷⁹⁰ [REDACTED].⁷⁹¹ [REDACTED],⁷⁹² which is contradicted by Items CAR-D29-0009-0245 and CAR-D29-0009-0246.⁷⁹³ [REDACTED]. It has to be recalled that the Defence never challenged V45-0002's year of birth.

230. It is submitted that the D29-6036's striking lack of knowledge regarding V45-0002's situation is odd for someone who [REDACTED]. In fact, it appears that D29-

⁷⁸⁵ See V45-0002: [T-248](#), p. 22, line 22 to p. 24, line 14 (Conf).

⁷⁸⁶ See V45-0002: [T-248](#), p. 39, lines 9-14 (Conf).

⁷⁸⁷ See V45-0002: [T-248](#), p. 39, lines 9-21 (Conf).

⁷⁸⁸ See D29-6036: [T-262](#), p. 21, line 9 to p. 37, line 6 (Conf).

⁷⁸⁹ See D29-6036: [T-262](#), p. 22, lines 19-21 and p. 23, lines 1-6 (Conf).

⁷⁹⁰ See D29-6036: [T-262](#), p. 23, line 22 to p. 25, line 13 (Conf).

⁷⁹¹ See D29-6036: [T-262](#), p. 24, lines 6-9 (Conf).

⁷⁹² See D29-6036: [T-262](#), p. 23, lines 12-15 (Conf).

⁷⁹³ See also, D29-6036: [T-262](#), p. 23, lines 16-19 (Conf).

6036 knows V45-0002 very little, if at all. Also, while stating that V45-0002 was never in the Anti-Balaka, he nevertheless indicates that [REDACTED].

231. The Defence called seven witnesses under rule 68(2)(b) to testify about V45-0002, which means that their evidence was untested. These witnesses made very vague statements. It is submitted that overall, the evidence given by these witnesses has very little, if at all, any probative value.

232. In particular, D29-6033, an inhabitant of [REDACTED], provides hearsay evidence based on child soldiers' activities he did not attend. [REDACTED].⁷⁹⁴

233. D29-6039, [REDACTED] provides very general affirmations denying the membership of any of her family members in the Anti Balaka.⁷⁹⁵

234. D29-7011's [REDACTED] has very little if at all probative value. [REDACTED].

235. D29-6046, [REDACTED] is not a credible witness. [REDACTED].⁷⁹⁶ [REDACTED],⁷⁹⁷ [REDACTED].

236. D29-6027 merely states that the individual on Item V45-00000011 is V45-0002, his name is [REDACTED], and that their father is [REDACTED].⁷⁹⁸ Even if the real name of V45-0002's father is [REDACTED], this cannot automatically be the case that the witness's name is also [REDACTED]. In fact, no identification has been put on the record with the name [REDACTED].

237. In light of the above, the CLR1 submits that there is no sufficient evidence in the record of a nature to undermine V45-0002's credibility and the probative value of his testimony and accordingly the Chamber should rely on V45-0002's testimony in its determination of YEKATOM's criminal responsibility with respect to Count 29.

⁷⁹⁴ See [CAR-D29-0009-0315-R01](#), paras. 27-29.

⁷⁹⁵ See [CAR-D29-0009-0545-R01](#), para. 20.

⁷⁹⁶ See [CAR-D29-0009-0722-R01](#), paras. 27-31.

⁷⁹⁷ See [CAR-D29-0009-0722-R01](#), para. 32.

⁷⁹⁸ See [CAR-D29-0009-0239](#), paras. 14-15 and 19.

VIII. YEKATOM'S CRIMINAL RESPONSIBILITY UNDER COUNT 29

238. The CLR1 submits that YEKATOM shall bear individual criminal responsibility under article 25(3)(a) and article 25(3)(b) of the Statute, for the commission of the crimes under article 8(2)(e)(vii) of the Statute, namely the enlistment or conscription of children under the age of fifteen into his Anti-Balaka armed group and their active use in hostilities.

1. Legal Requirements

a) Article 25(3)(a) – Commission jointly with others or through other persons

239. The Pre-Trial Chamber confirmed YEKATOM's alleged responsibility “*jointly with another or through another,*” under article 25(3)(a) of the Statute.⁷⁹⁹ Consequently, he is liable as a co-perpetrator (including both direct and indirect co-perpetration) as well as an indirect perpetrator.⁸⁰⁰

240. Pursuant to article 25(3)(a), “*a person shall be criminally responsible and liable for punishment for a crime within the jurisdiction if that person commits [the] crime [...] as an individual*”. As set out in the jurisprudence of the *ad hoc* international tribunals and the hybrid courts, this mode of liability refers to the physical perpetration of the crime by the offender himself.⁸⁰¹ Moreover, the Court already established that the commission “*as an individual*”, requires that the Accused undertakes the physical carrying out of

⁷⁹⁹ See the “Corrected version of ‘Decision on the confirmation of charges against Alfred Yekatom and Patrice-Edouard Ngaïssona’” (Pre-Trial Chamber II), [No. ICC-01/14-01/18-403-Corr-Red](#), 28 June 2021, p. 106.

⁸⁰⁰ See the “Prosecution response to Mr YEKATOM’s “Motion to Dismiss Co-Perpetration Mode of Liability” (Trial Chamber V), [No. ICC-01/14-01/18-576-Conf](#), 3 July 2020, para. 7; the “Decision on Motions on the Scope of the Charges and the Scope of the Evidence at Trial” (Trial Chamber V), [No. ICC-01/14-01/18-703-Conf](#), 29 October 2020, para. 24.

⁸⁰¹ See ICTY, *Tadić*, Case No. IT-94-1-A, [Appeal Judgement](#) (Appeals Chamber), 15 July 1999, para. 188; ICTR, *Renzaho*, Case No. ICTR-97-31-T, [Judgement and sentence](#) (Trial Chamber I), 14 July 2009, para. 739; ECCC, *Kaïng Guek Eav alias Duch*, Case No. 001/18-07-2007/ECCC/TC, [Judgment](#) (Trial Chamber), 26 July 2010, paras. 479-481; and STL, Case No. STL-11-01/1/I/AC/R176bis, [Interlocutory Decision on the Applicable Law: Terrorism, Conspiracy Homicide, Perpetration, Cumulative Charging](#), (Appeals Chamber) 16 February 2011, para. 216.

the elements of the crime.⁸⁰² The article also provides for the liability of an individual who commits a crime “*jointly with another person*” or “*through another person*”, regardless of whether that other person is criminally responsible.

241. Accordingly, the elements of the three forms of liability of direct and indirect co-perpetration as well as an indirect perpetration arising under article 25(3)(a) of the Statute are briefly addressed below.

Direct co-perpetration

242. Pursuant to the established jurisprudence of the Court, the form of committing the crimes jointly with another person or through another person requires: (i) the existence of an agreement or common plan between the accused and other persons to commit the crimes or to engage in a conduct which, in the ordinary course of events, would result in the commission of the crimes;⁸⁰³ (ii) the control of the members of the common plan over other persons who execute the material elements of the crimes by subjugating the will of the direct perpetrators;⁸⁰⁴ and (iii) the accused, though not required to carry out the criminal conduct directly and personally, must have a control over the crime by virtue of his or her essential contribution to it and the resulting power to frustrate its commission.⁸⁰⁵

⁸⁰² See the *Bemba* Appeal Judgment, *supra* note 12, para. 706; the *Lubanga* Appeal Judgment, *supra* note 10, para. 467; the “Decision on the confirmation of charges” (Pre-Trial Chamber I), [No. ICC-01/04-01/07-717](#), 30 September 2008, para. 488; the “Decision on the Confirmation of Charges”, *supra* note 158, para. 332; and the *Bemba* Judgment, *supra* note 20, para. 58.

⁸⁰³ See the *Ntaganda* Judgment, *supra* note 39, paras. 771-772 and 774-775. The Appeals Chamber in the *Lubanga* case clarified that the commission “*jointly with another person*” requires an agreement between the perpetrators, leading to the commission of the crimes; while the commission “*through another person*” entails the accused making use of another person who actually carries out the incriminated acts by virtue of the former’s control over that person and thus the latter’s conduct is therefore imputed on the former. See the *Lubanga* Appeal Judgment, *supra* note 10, paras. 445-446.

⁸⁰⁴ See the *Ntaganda* Judgment, *supra* note 39, paras. 774 and 777. See also, the “Decision on the confirmation of charges against Charles Blé Goudé” (Pre-Trial Chamber I), [No. ICC-02/11-02/11-186](#), 11 December 2014, para. 136 (the “*Blé Goudé* Confirmation Decision”).

⁸⁰⁵ See the *Ntaganda* Judgment, *supra* note 39, paras. 774 and 778. See also, the *Bemba* Appeal Judgment, *supra* note 12, para. 821.

Indirect co-perpetration

243. In addition to the elements required for direct co-perpetration, the following criteria must be met for indirect co-perpetration: (i) utilising another person or a structured and hierarchical power apparatus;⁸⁰⁶ (ii) the co-perpetrators must jointly control this person or apparatus;⁸⁰⁷ and (iii) the accused must be aware of the fundamental characteristics of the organization, through which the co-perpetrators jointly exercise functional control over the crime.⁸⁰⁸

244. The CLR1 notes, in particular, that the co-perpetrators' joint control over the organization can be demonstrated if, for instance, any one of them had veto power within the organization or possessed the ability to hire, train, discipline, and provide resources to subordinates.⁸⁰⁹

⁸⁰⁶ See the "Decision on the confirmation of charges" (Pre-Trial Chamber I), [No. ICC-01/04-01/07-717](#), 30 September 2008 (the "*Katanga* Confirmation Decision"), paras. 488, 495-498, 500-518; the *Katanga* Judgment, *supra* note 17, paras. 1403-1405, 1408-1412; the "Decision on the confirmation of charges pursuant to article 61 (7)(a) and (b) of the Rome Statute" (Pre-Trial Chamber II), [No. ICC-01/09-02/11-382-Red](#), 23 January 2012 (the "*Kenya* Confirmation Decision"), para. 297, 407; the "Decision on the confirmation of charges pursuant article 61(7)(a) and (b) of the Rome Statute" (Pre-Trial Chamber II), [No. ICC-01/09-01/11-373](#), 23 January 2012 (the "*Ruto & Sang* Confirmation Decision"), para. 292; the *Ongwen* Judgment, *supra* note 50, paras. 2786; and the *Ntaganda* Judgment, *supra* note 39, para. 778.

⁸⁰⁷ See the *Katanga* Judgment, *supra* note 17, para. 1399, 1404, 1411-1412; the *Katanga* Confirmation decision, *supra* note 806, paras. 488 and 510; the *Kenya* Confirmation Decision, *supra* note 806, para. 297; the *Ruto & Sang* Confirmation Decision, *supra* note 806, para. 292; the "*Blé Goudé* Confirmation Decision", *supra* note 804, para. 136; the *Ongwen* Judgment, *supra* note 50, para. 2787; the *Ntaganda* Judgment, *supra* note 39, paras. 777-778.

⁸⁰⁸ See the *Katanga* Judgment, *supra* note 17, paras. 1125, 1641; the *Kenya* Confirmation Decision, *supra* note 806, paras. 297, 399, 407, 410; the *Ruto & Sang* Confirmation Decision, *supra* note 806, para. 292; the *Ntaganda* Appeal Judgment, *supra* note 50, paras. 21, 1032, 1045.

⁸⁰⁹ See the *Katanga* Confirmation Decision, *supra* note 806, paras. 513, 518; and the *Ntaganda* Judgment, *supra* note 39, paras. 767-768.

Indirect perpetration

245. Indirect perpetration entails committing a crime *via* another person, regardless of that person's criminal liability. The crime can be indirectly carried out through one or more individuals, or, as in this case, through an armed group.⁸¹⁰

246. Under article 25(3)(a) of the Statute, criminal responsibility as an indirect perpetrator requires that: (i) the accused commits the crime through another person or organization; (ii) the accused has control over the will of the direct perpetrator(s) or the organization; (iii) the organization operates as a structured and hierarchical apparatus of power; and (iv) the crimes are executed with near-automatic compliance to the accused's orders.⁸¹¹ While the accused must possess the necessary knowledge and intent regarding the crime, the *mens rea* of the direct perpetrators is irrelevant.⁸¹²

b) Article 23(3)(b) – Ordering

247. Pursuant to article 25(3)(b) of the Statute, "*a person shall be criminally responsible and liable for punishment for a crime within the jurisdiction if that person [o]rders [...] the commission of such a crime which in fact occurs or is attempted*". Ordering is an aggravated form of inducement. The distinguishing feature of ordering is the 'authority requirement'. This authority requires neither *de jure* nor *de facto* superior/subordinate relationship between the person who orders the crime and those who execute the order.⁸¹³ At the Court, the imputation of liability under "ordering" requires:

⁸¹⁰ See the *Ntaganda* Judgment, *supra* note 39, paras. 777-778, 812-825; the *Bemba* Judgment, *supra* note 20, para. 56; the *Katanga* Confirmation Decision, *supra* note 806, para. 498; and the *Ongwen* Judgment, *supra* note 50, paras. 2783-2784.

⁸¹¹ See the *Ntaganda* Judgment, *supra* note 39, paras. 777-778, 820-824; the *Katanga* Judgment, *supra* note 17, paras. 1398-1412; the *Katanga* Confirmation Decision, *supra* note 806, paras. 487, 495-518; the "Decision on the "Prosecutor's Application Pursuant to Article 58 as to Muammar Mohammed Abu Minyar GADDAFI, Saif Al-Islam GADDAFI and Abdullah ALSENUSSI"" (Pre-Trial Chamber I), [No. ICC-01/11-12](#), 27 June 2011, para. 69.

⁸¹² See the "Public Redacted Version of "Decision on Prosecution's Application for a Warrant of Arrest against Omar Hassan Ahmad Al Bashir"" (Pre-Trial Chamber), [No. ICC-02/05-01/09-3](#), footnote 154.

⁸¹³ See OLASOLO (H.) & CARNERO ROJO (E.), "Forms of accessorial liability under article 25(3)(b) and (c)", in STAHN (C.) (ed.), *The Law and practice of the International Criminal Court*, Oxford University Press, 2015, p. 562.

- the person is in a position of authority;
- the person instructs another person in any form to either
 - commit a crime which in fact occurs or is attempted; or
 - perform an act or omission in the execution of which a crime is carried out;
- the order had an effect on the commission or attempted commission of the crime;⁸¹⁴ and
- the person is at least aware that the crime will be committed in the ordinary course of events as a consequence of the execution or implementation of the order.⁸¹⁵

248. This mode of attribution becomes applicable when, for instance, the Accused orders the deployment in armed confrontation of a battalion that includes child soldiers; thereby ordering the use of children under the age of 15 to actively participate in hostilities.

2. YEKATOM's role and authority

a) Structure, training and equipment of the Anti-Balaka

249. The Anti-Balaka movement began in ZONGO after the March 2013 *coup*.⁸¹⁶ By December, YEKATOM gathered and commanded about 3,000 elements, including 200 FACA.⁸¹⁷

⁸¹⁴ The causality requirements developed in relation to instigation apply to the attribution of liability under ordering. See the *Bemba* Appeal Judgment, *supra* note 12, para. 848.

⁸¹⁵ See the "Decision Pursuant to Article 61(7)(a) and (b) of the Rome Statute on the Charges of the Prosecutor Against Bosco Ntaganda" (Pre-Trial Chamber II), [No. ICC-01/04-02/06-309](#), 9 June 2014 (the "*Ntaganda* Confirmation Decision"), para. 145.

⁸¹⁶ See [CAR-OTP-2065-0716](#), from [00:01:02] to [00:01:28] and its transcript and translation [CAR-OTP-2107-6924](#), at 6925, lines 13-29, [CAR-OTP-2107-7058](#), at 7060, lines 13-29.

⁸¹⁷ See **P-1339: T-152**, p. 77, line 25 to p. 78, line 7 (Conf); **P-0954: T-166**, p. 43, lines 16-20 (Conf); [CAR-OTP-2048-0171-R03](#), at 0185, para. 80; **P-2084: CAR-OTP-2094-0968-R02**, at 0983, para. 77; [CAR-OTP-2055-2610](#), from [00:07:15] to [00:08:12] and its transcript and translation [CAR-OTP-2107-6906](#), at 6913-6914, lines 193-233, and [CAR-OTP-2122-2271](#), at 2279-2280, lines 193-236.

250. YEKATOM – following a military-like hierarchy⁸¹⁸ - commanded the different sections including FACA elements⁸¹⁹ and implemented an administrative structure by assigning a treasurer and a secretary to maintain records,⁸²⁰ member registrations and weapons distribution.⁸²¹

251. YEKATOM's authority was recognized by his subordinates, CAR authorities, Anti-Balaka leadership and the international community.⁸²² As a powerful ComZone and a military commander – or a person acting as such – he issued press releases⁸²³ and presented his group before the French press on 7 December 2023.⁸²⁴

252. YEKATOM purchased weapons – or provided his elements with money to buy them – such as machetes, knives, guns, and rifles.⁸²⁵ Others were acquired through FACA members joining the group, stolen from the Seleka or pillaged from the *gendarmerie*.⁸²⁶ His elements received specific training on the use of weapons and on the rule of law.⁸²⁷

⁸¹⁸ See *supra*, para. 28 and **P-1786** : [T-197](#), p. 72, lines 11-16 (Conf).

⁸¹⁹ See **P-1339**: [T-151](#), p. 41, line 25 to p. 42, line 8; **P-0954**: [T-166](#), p. 43, lines 16-20 (Conf); [CAR-OTP-2048-0171-R03](#), at 0185, para. 80; [CAR-OTP-2039-0063](#), at 0063-0064; **P-2232**: [T-077](#), p. 65, lines 2-6 (Conf); **P-1786**: [T-197](#), p. 60, line 23 to p. 61, line 6 (Conf); [CAR-OTP-2058-0200-R03](#), at 0210, paras. 56-58; [CAR-OTP-2039-0063](#), at 0063-0064; **P-1558**: [CAR-OTP-2105-0195-R01](#), at 0203, para. 44; [CAR-OTP-2065-3696](#), and its transcript [CAR-OTP-2107-1549](#), at 1550, lines 5-17.

⁸²⁰ See **P-1839**: [T-170](#), p. 56, line 18 to p. 57, line 1 (Conf).

⁸²¹ See **P-1339**: [T-159](#), p. 8, line 25 to p. 9, line 4 (Conf); [CAR-OTP-2065-3827](#), from [00:00:00] to [00:00:53] and its transcript [CAR-OTP-2107-3362](#) at 3363, lines 4-22; [CAR-OTP-2065-3977](#), from [00:00:00] to [00:01:14], and its transcript and translation [CAR-OTP-2127-3765](#) and [CAR-OTP-2127-3686](#), at 3688, lines 3-19; [CAR-OTP-2065-4328](#) from [00:00:00] to [00:00:42], and its transcript [CAR-OTP-2122-7508](#), at 7509, lines 3-14; [CAR-OTP-2065-4332](#) [00:00:00] to [00:00:57], and its transcript [CAR-OTP-2122-7399](#), at 7400, lines 3-27.

⁸²² See *supra*, para. 28.

⁸²³ See [CAR-OTP-2032-0074](#); [CAR-OTP-2032-0059](#).

⁸²⁴ See *supra*, para. 28.

⁸²⁵ See **P-1339**: [T-158](#), p. 53, lines 10-16 (Conf); **P-1839**: [T-171](#), p. 40, line 23 to p. 42, line 3 (Conf); **P-2419**: [CAR-OTP-2112-0036-R01](#), at 0052, para. 93.

⁸²⁶ See **P-0954**: [T-168](#), p. 55, lines 1-6 and p. 23, line 17 to p. 24, line 18 (Conf); [CAR-OTP-2048-0171-R03](#), at 0184, para. 78; **P-1339**: [T-154](#), p. 19, lines 2-10 (Conf); [CAR-OTP-2001-5642](#), at 5643; [CAR-OTP-2065-0396](#), from [00:01:15] to [00:01:40] and its transcript and translation [CAR-OTP-2107-6918](#), at 6919, lines 27-34, and [CAR-OTP-2107-7050](#), at 7052, lines 27-34; **P-1786**: [T-197](#), p. 72, line 21 to p. 73, line 2 (Conf); [CAR-OTP-2058-0200-R03](#), at 0204, para. 24.

⁸²⁷ See **P-1647**: [T-194](#), p. 45, lines 3-22 (Conf); [CAR-OTP-2050-0654-R02](#), at 0658-0659, 0665, paras. 33, 81-83; [CAR-OTP-2039-0072](#), at 0073 ; **P-0487**: [T-201](#), p. 11, line 23 to p. 12, line 13 (Conf).

253. After the establishment of the base at [REDACTED] after the 5 December 2013 Attack, YEKATOM organized more training for his group to prepare for an attack and make DJOTODIA resign.⁸²⁸

b) Preparing attacks and executing them

254. YEKATOM prepared operations to attack Muslim civilians. From December 2013 he coordinated, commanded and controlled his group in order to deploy them in the southwest of BANGUI (including CATTIN) and BOEING.⁸²⁹ He also deployed his elements to the LOBAYE Prefecture along the PK9-MBAIKI and PISSA-axis.⁸³⁰

⁸²⁸ See [CAR-OTP-2065-4053](#), from [00:00:00] to [00:02:14] and its transcript and translation [CAR-OTP-2107-3089](#) and [CAR-OTP-2107-3091](#); [CAR-OTP-2065-4057](#), from [00:00:00] to [00:00:34] and its transcript and translation at [CAR-OTP-2107-3094](#) and [CAR-OTP-2107-3096](#), at 0398, lines 1-11; [CAR-OTP-2065-5498](#), from [00:00:00] to [00:02:32] and its transcript and translation [CAR-OTP-2122-9546](#) and [CAR-OTP-2122-9572](#), at 9574, lines 3-19; [CAR-OTP-2065-0951](#), at [00:01:17] to [00:01:59] and its transcript and translation at [CAR-OTP-2107-6928](#), at 6929, lines 13-25, and [CAR-OTP-2107-7063](#), at 7065, lines 13-24; [CAR-OTP-2065-0999](#), from [00:00:52] to [00:01:23] and its transcript [CAR-OTP-2107-1543](#), at 1544, lines 1-16; [CAR-OTP-2065-3917](#), from [00:00:00] to [00:00:21] and its transcript [CAR-OTP-2122-7506](#), at 7507, lines 1-4; [CAR-OTP-2065-3921](#), from [00:00:00] to [00:02:06] and its transcript and translation [CAR-OTP-2127-7089](#) at 7091, lines 3-27; [CAR-OTP-2065-3953](#), from [00:00:00] to [00:00:41] and its transcript [CAR-OTP-2122-9441](#), at 9442, lines 3-19; [CAR-OTP-2065-3969](#), from [00:00:00] to [00:00:50] and its transcript and translation [CAR-OTP-2107-3084](#), at 3085, lines 1-13, and [CAR-OTP-2107-3086](#), at 3088, lines 1-17; [CAR-OTP-2065-3973](#), from [00:00:00] to [00:00:26] and its transcript and translation [CAR-OTP-2127-7117](#), at 7119, lines 3-7; **P-2232 : T-076**, p.59, lines 22-24 (Conf); **P-1647: T-194**, p. 45, lines 3-22 (Conf); [CAR-OTP-2050-0654-R02](#), at 0658-0659, paras. 31, 33; **P-1839: T-170**, p. 24, lines 15-24 (Conf); [CAR-OTP-2005-0129](#), from [00:21:28] to [00:23:24] and its transcript and translation [CAR-OTP-2130-1184](#), at 1193-1194, lines 316-351, and [CAR-OTP-2130-1307](#), at 1319-1320, lines 384-428; [CAR-OTP-2065-3212](#) from [00:00:00] to [00:01:32], and its transcript and translation [CAR-OTP-2127-3748](#) and [CAR-OTP-2127-3662](#), at 3664, lines 3-30; [CAR-OTP-2108-1474](#) from [00:00:00] to [00:02:36] and its transcript, [CAR-OTP-2127-6799](#); [CAR-OTP-2065-2867](#) from [00:00:00] to [00:03:04] and its transcript and translation, [CAR-OTP-2127-3746](#), and [CAR-OTP-2127-3658](#), at 3660-3661, lines 4-51.

⁸²⁹ See [CAR-OTP-2065-5324](#) from [00:00:00] to [00:01:44] and its transcript and translation [CAR-OTP-2107-3128](#) and [CAR-OTP-2118-5698](#), at lines 4-49; **P-1528: T-178**, p. 26, line 10 to p. 27, line 11 (Conf); [CAR-OTP-2048-0757-R05](#), at 0766, paras. 50-51; **P-0487: T-201**, p. 26, lines 5-15 (Conf) and **T-202**, p. 4, line 25 to p. 5, line 9 (Conf); [CAR-OTP-2001-3811](#), at 3817; see also [CAR-OTP-2065-2292](#) from [00:00:00] to [00:02:18] and its transcript and translation [CAR-OTP-2127-3732](#) and [CAR-OTP-2127-3635](#), at 3637-3638, lines 4-52.

⁸³⁰ See **P-1839: T-170**, p. 41, lines 11-23 (Conf); [CAR-OTP-2066-1467](#), at 1467; **P-1193: T-124**, p. 25, line 24 to p. 26, line 12 and p. 29, lines 2-9 (Conf); [CAR-OTP-2045-0048-R02](#), at 0053, 0058, paras. 33-34, 63; **P-1858: T-185**, p. 20, line 21 to p. 21, line 11 (Conf); [CAR-OTP-2063-0050-R04](#), at 0060, 0063-0064, 0068, paras. 60, 83-85, 112; **P-2328: T-047**, p. 64, lines 10-20 and p. 68, lines 6-12 (Conf); [CAR-OTP-2099-0165-R02](#), at 0177, 0183, paras. 62, 95, 97; **P-2012: T-025**, p. 47, lines 1-11; [CAR-OTP-2122-4221-R01](#), at 4239, para. 69 and [CAR-OTP-2091-0237](#) at 0258; **P-0954: T-166**, p. 49, lines 10-21 (Conf) and **T-168**, p. 54, line 18 to p. 55, line 3 (Conf); [CAR-OTP-2048-0171-R03](#), at 0181-0182, 0184-0185, paras. 61, 79; [CAR-OTP-2101-0340](#), at 0340; **P-0287: T-021**, p. 45, lines 12-16 (Conf); [CAR-OTP-2115-0239-R01](#), at 0257, para. 82; **P-1813: T-180**, p. 9, lines 7-22 (Conf); [CAR-OTP-2069-0035-R01](#), at 0041, para. 40; **P-1521: T-082**, p. 37,

255. YEKATOM set up roadblocks and illegal checkpoints throughout the LOBAYE prefecture and near BANGUI in order to control the entries, identify “traitors”, and exact illegal tolls from passing vehicles – including cash and supplies⁸³¹ – which he personally collected.⁸³²

256. YEKATOM requested and received updates regarding the situation of his subordinates on the ground⁸³³ and was present when they committed certain crimes,⁸³⁴ as he was regularly present in areas under his control.⁸³⁵ YEKATOM did not take any action regarding his subordinates’ crimes.⁸³⁶

lines 9-14 (Conf); **P-1647: T-194**, p. 51, line 20 to p. 52, line 24 (Conf); [CAR-OTP-2050-0654-R02](#), at 0660, paras. 39, 44; **P-0487: T-201**, p. 59, lines 2-14 (Conf); [CAR-OTP-2039-0020](#), at 0020; [CAR-OTP-0080-0821](#), at 0823; [CAR-OTP-2084-1303](#), from [00:00:15] to [00:00:42] and its transcript and translation at [CAR-OTP-2107-6982](#), at 6983, lines 7-13, and [CAR-OTP-2107-7128](#), at 7130, lines 7-13; **P-1974: T-227**, p. 13, lines 7-12 and p. 19, lines 10-21 (Conf); [CAR-OTP-2068-0222-R05](#), at 0226, paras. 25-26.

⁸³¹ See **P-1990: T-236**, p. 35, lines 9-18 (Conf); [CAR-OTP-2124-0247-R02](#), at 0254-0255, paras. 31-35; [CAR-OTP-2001-6251](#) at 6294, 6329; [CAR-OTP-2001-5642](#) at 5643, 5645; **P-2328: T-047**, p. 75, lines 1-6 (Conf); **P-1813: T-180**, p. 11, line 11 to p. 12, line 1 (Conf); [CAR-OTP-2069-0035-R02](#), at 0046, para. 74; [CAR-OTP-2065-1889](#) from [00:01:47] to [00:02:02] and its transcript and translation [CAR-OTP-2130-0757](#) and [CAR-OTP-2130-0759](#), at 0761, lines 5-9; [CAR-OTP-2065-2009](#) from [00:00:00] to [00:03:44] and its transcript and translation, [CAR-OTP-2127-3704](#) and [CAR-OTP-2127-3593](#), at 3595-3598, lines 1-109; [CAR-OTP-2065-2057](#), from [00:00:00] to [00:02:38] and its transcript and translation, [CAR-OTP-2127-6214](#) and [CAR-OTP-2127-6322](#), at 6324-6326, lines 6-80; [CAR-OTP-2065-2089](#), from [00:00:00] to [00:00:22] and its transcript and translation [CAR-OTP-2127-3715](#) and [CAR-OTP-2127-3609](#), at 3611, lines 1-16; [CAR-OTP-2065-2185](#) from [00:00:00] to [00:02:52] and its transcript and translation [CAR-OTP-2127-3728](#) and [CAR-OTP-2127-3628](#), at 3630-3631, lines 1-47; [CAR-OTP-2065-2189](#) from [00:00:00] to [00:01:22] and its transcript and translation [CAR-OTP-2127-3730](#) and [CAR-OTP-2127-3632](#), at 3634, lines 1-21; [CAR-OTP-2065-4021](#) from [00:00:11] to [00:01:43] and its transcript and translation [CAR-OTP-2127-3771](#) and [CAR-OTP-2127-3694](#), at 3696-3697, lines 11-42; [CAR-OTP-2065-5082](#) from [00:00:00] to [00:01:20] and its transcript and translation [CAR-OTP-2127-4499](#) and [CAR-OTP-2127-4586](#), at 4588, lines 3-31; [CAR-OTP-2065-2057](#), from [00:00:00] to [00:02:38], and its transcript and translation, [CAR-OTP-2127-6214](#) and [CAR-OTP-2127-6322](#), at 6324-6326, lines 6-80.

⁸³² See **P-1838: T-215**, p. 13, lines 10-22 (Conf); **P-2475: T-130**, p. 46, line 18 to p. 47, line 21 (Conf); [CAR-OTP-2001-0835](#), at 0884; [CAR-OTP-2001-5739](#), at 5798; [CAR-OTP-2074-3246](#), at 3247; [CAR-OTP-2118-0415](#) from [00:59:57] to [01:00:07] and its transcript and translation, [CAR-OTP-2127-4357](#) and [CAR-OTP-2127-4410](#), at 4434, lines 837-850.

⁸³³ See **P-1647: T-196**, p. 24, lines 6-12 (Conf); [CAR-OTP-2050-0654-R02](#), at 0662, paras. 50-51; **P-1839: T-170**, p. 45, line 24 to p. 46, line 17 (Conf).

⁸³⁴ See [CAR-OTP-2065-2025](#), from [00:00:00] to [00:01:43] and its transcript and translation [CAR-OTP-2122-9541](#) and [CAR-OTP-2122-9565](#), at 9567-9568, lines 1-64.

⁸³⁵ See **P-1528: CAR-OTP-2048-0757-R05**, at 0766, paras. 50-51; **P-1839: T-171**, p. 54, lines 16-22 and p. 62, lines 17-25 (Conf); [CAR-OTP-2001-0835](#), at 0876; **P-1786: CAR-OTP-2058-0200-R03**, at 0207, para. 41.

⁸³⁶ See **P-1839: T-171**, p. 70, lines 9-13 (Conf); [CAR-OTP-2065-2049](#) from [00:01:00] to [00:01:16] and its transcript and translation [CAR-OTP-2127-3710](#) and [CAR-OTP-2127-3602](#), at 3604, lines 23-33.

257. YEKATOM was known for killing Muslims and his own elements when they opposed him.⁸³⁷

c) Issuing orders to Anti-Balaka, including illegal instructions

258. YEKATOM issued administrative and criminal orders⁸³⁸ to his group. He ordered the killing and torture of Muslims – including women and children⁸³⁹ – and directed violence against disloyal elements.⁸⁴⁰ He ordered illegal instructions such as

⁸³⁷ See **P-0487**: [T-201](#), p. 45, lines 8-13 (Conf); **P-0876**: [T-085](#), p. 45, lines 10-17 and p. 46, line 16 to p. 47, line 1 (Conf); [CAR-OTP-2046-0267-R01](#), at 0274, lines 244-257; [CAR-OTP-2046-0324-R01](#), at 0342, lines 634-660; **P-0954**: [T-166](#), p. 36, lines 4-9 and p. 42, lines 2-9 (Conf); [CAR-OTP-2048-0171-R03](#), at 0185-0186, paras.83-88; **P-0974**: [CAR-OTP-2058-0165-R01](#), at 0179, paras. 94-95; **P-1839**: [T-171](#), p. 30, lines 16-21 and p. 78, line 19 to p. 79, line 7 (Conf); **P-1858**: [T-185](#), p. 26, lines 9-15 (Conf); [CAR-OTP-2063-0050-R04](#), at 0065, para. 94; [CAR-OTP-2001-2707](#), at 2728; **P-1786**: [CAR-OTP-2058-0200-R03](#), at 0210, para. 55.

⁸³⁸ See **P-1839**: [T-170](#), p. 46, lines 4-17 (Conf) ; [CAR-OTP-2065-2017](#), from [00:00:00] to [00:01:23] and its transcript and translation, [CAR-OTP-2127-3708](#) and [CAR-OTP-2127-3599](#), at 3601, lines 4-29; [CAR-OTP-2065-1889](#) and its transcript and translation [CAR-OTP-2130-0757](#) and [CAR-OTP-2130-0759](#); [CAR-OTP-2065-2009](#), from [00:00:54] to [00:01:56] and its transcript and translation [CAR-OTP-2127-3704](#) and [CAR-OTP-2127-3593](#), at 3596-3598, lines 35-109; [CAR-OTP-2065-2077](#), from [00:00:00] to [00:01:52] and its transcript and translation [CAR-OTP-2127-6532](#) and [CAR-OTP-2127-6574](#), at 6576-6577, lines 25-60; [CAR-OTP-2065-2097](#), from [00:00:00] to [00:00:37] and its transcript and translation [CAR-OTP-2127-6535](#) and [CAR-OTP-2127-6578](#), at 6580, lines 1-17; [CAR-OTP-2065-2101](#), from [00:00:00] to [00:01:34] and its transcript and translation [CAR-OTP-2127-6537](#) and [CAR-OTP-2127-6581](#), at 6583-6584, lines 1-52; [CAR-OTP-2065-2105](#), from [00:00:00] to [00:00:53] and its transcript and translation [CAR-OTP-2127-3717](#) and [CAR-OTP-2127-3612](#), at 3614, lines 1-14; [CAR-OTP-2065-2177](#) from [00:00:00] to [00:03:37] and its transcript and translation [CAR-OTP-2127-3725](#) and [CAR-OTP-2127-3623](#), at 3625-3627, lines 1-86; [CAR-OTP-2065-0730](#) from [00:00:00] to [00:01:48] and its transcript and translation [CAR-OTP-2130-1081](#) and [CAR-OTP-2130-1134](#), at 1136-1137, lines 3-36; [CAR-OTP-2065-3492](#) from [00:00:00] to [00:00:22] and its transcript and translation [CAR-OTP-2127-3755](#) and [CAR-OTP-2127-3672](#), at 3674, lines 1-7; [CAR-OTP-2065-3692](#) from [00:00:00] to [00:00:40] and its transcript and translation [CAR-OTP-2122-9617](#) and [CAR-OTP-2122-9676](#), at 9678, lines 1-8; [CAR-OTP-2065-3802](#), from [00:00:00] to [00:04:47] and its transcript and translation [CAR-OTP-2127-3757](#) and [CAR-OTP-2127-3675](#), at 3677- 3679, lines 1-90; [CAR-OTP-2065-4504](#) from [00:00:00] to [00:01:56] and its transcript and translation [CAR-OTP-2127-7232](#) and [CAR-OTP-2127-7235](#), at 7237-7238, lines 3-46; [CAR-OTP-2065-4508](#), from [00:00:00] to [00:00:40] and its transcript and translation [CAR-OTP-2127-3774](#) and [CAR-OTP-2127-3698](#), at 3700, lines 1-16; [CAR-OTP-2065-4561](#), [00:00:00] to [00:00:36] and [00:00:50] to [00:01:00] and its transcript and translation [CAR-OTP-2127-6542](#) and [CAR-OTP-2127-6588](#), at 6590, lines 1-20 and 28-31; [CAR-OTP-2065-4565](#), [00:00:00] to [00:00:31] and its transcript and translation [CAR-OTP-2127-6544](#) and [CAR-OTP-2127-6591](#), at 6593, lines 1-8; [CAR-OTP-2065-4569](#), [00:00:00] to [00:00:15] and its transcript and translation [CAR-OTP-2127-6546](#) and [CAR-OTP-2127-6594](#), at 6596, lines 1-9; [CAR-OTP-2065-5082](#), from [00:00:00] to [00:01:20] and its transcript and translation [CAR-OTP-2127-4499](#) and [CAR-OTP-2127-4586](#), at 4588, lines 1-31; [CAR-OTP-2065-5086](#), from [00:00:00] to [00:01:21] and its transcript and translation [CAR-OTP-2127-4343](#) and [CAR-OTP-2127-4388](#), at 4390, lines 3-24.

⁸³⁹ See **P-0954**: [T-166](#), p. 84, lines 2-8 (Conf); [CAR-OTP-2048-0171-R03](#), at 0185-0186, paras. 81-88; **P-1339**: [T-152](#), p. 18, lines 13-17 and p. 71, lines 14-15 (Conf); **P-2475**: [T-129](#), p. 38, lines 1-3 (Conf); **P-1839**: [T-171](#), p. 30, lines 16-21 (Conf).

⁸⁴⁰ See **P-1339**: [T-151](#), p. 39, lines 12-13 (Conf) and [T-152](#), p. 61, lines 9-12 (Conf); **P-0954**: [T-166](#), p. 36, lines 4-9 and p. 42, lines 2-9 (Conf); [CAR-OTP-2048-0171-R03](#), at 0185-0186, paras. 81-88; **P-1839**: [T-171](#), p. 78,

cutting throats, cutting off ears, executions or burying people alive.⁸⁴¹ As YEKATOM wanted Muslims to “go back to their country”, he ordered his group to pillage and destroy Muslim homes and mosques.⁸⁴²

259. YEKATOM also issued administrative orders such as authorisations to pass through checkpoints, missions, and the appointment and replacement of subordinate leaders.⁸⁴³ He was considered as the “supreme leader”.⁸⁴⁴

260. YEKATOM’s orders were to be obeyed without question⁸⁴⁵ and disobedience was severely punished.⁸⁴⁶ Violent rhetoric against the CAR Muslim population – and not only Seleka members – were used to justify his illegal orders. He asked his group

line 19 to p. 79, line 1 (Conf); [CAR-OTP-2065-2169](#), from [00:00:00] to [00:02:56] and its transcript and translation [CAR-OTP-2127-3719](#) and [CAR-OTP-2127-3615](#), at 3617-3618, lines 1-62; [CAR-OTP-2065-4849](#), from [00:00:00] to [00:01:32] and its transcript and translation [CAR-OTP-2107-3106](#) and [CAR-OTP-2118-5685](#), at 5687-5688, at lines 1-57; [CAR-OTP-2065-4946](#), from [00:00:00] to [00:03:34] and its transcript and translation [CAR-OTP-2127-7239](#) and [CAR-OTP-2127-7242](#), at 7244-7245, lines 3-53.

⁸⁴¹ See **P-1339**: [T-152](#), p. 10, lines 14-25 (Conf) and [T-155](#), p. 29, lines 17-24 (Conf); **P-1839**: [T-170](#), p. 38, lines 2-5 (Conf).

⁸⁴² See **P-1339**: [T-152](#), p. 71, lines 12-24 (Conf); [CAR-OTP-2065-3696](#), and its transcript [CAR-OTP-2107-1549](#), at 1550, lines 5-17.

⁸⁴³ See **P-1339**: [T-151](#), p. 42, lines 9-25 (Conf); **P-1647**: [T-194](#), p. 62, lines 3-13 (Conf), [CAR-OTP-2050-0654-R02](#), at 0662, paras. 51-52; **P-1839**: [T-170](#), p. 46, lines 1-17 (Conf); **P-2328**: [T-047](#), p. 12, lines 1-4 (Conf); **P-1786**: [T-197](#), p. 47, lines 1-5 and p. 88, lines 21-24 (Conf); [CAR-OTP-2058-0200-R03](#), at 0208-0209, para. 48; [CAR-OTP-2065-4005](#) from [00:00:00] to [00:02:53] and its transcript and translation [CAR-OTP-2127-3768](#) and [CAR-OTP-2127-3690](#), at 3692-3693, lines 1-53; [CAR-OTP-2065-4009](#) [00:00:00] to [00:01:30] and its transcript and translation [CAR-OTP-2127-7154](#) and [CAR-OTP-2127-7158](#), at 7160, lines 3-19; [CAR-OTP-2065-4013](#) from [00:00:00] to [00:01:18] and its transcript and translation [CAR-OTP-2127-7225](#) and [CAR-OTP-2127-7228](#), at 7230-7231, lines 3-38.

⁸⁴⁴ See **P-1339**: [T-152](#), p. 19, lines 3-4 (Conf).

⁸⁴⁵ See **P-1858**: [T-185](#), p. 29, lines 12-23 (Conf); [CAR-OTP-2063-0050-R04](#), at 0063, para. 82; **P-0808**: [CAR-OTP-2093-0010-R01](#), at 0028, para. 102; [CAR-OTP-2065-2009](#) from [00:01:56] to [00:03:44] and its transcript and translation, [CAR-OTP-2127-3704](#) and [CAR-OTP-2127-3593](#), at 3597-3598, lines 78-109; [CAR-OTP-2065-3780](#) from [00:00:00] to [00:05:15] and its transcript and translation [CAR-OTP-2107-3067](#) and [CAR-OTP-2118-5662](#), at 5664-5667, lines 1-139.

⁸⁴⁶ See **P-0954**: [T-166](#), p. 36, lines 4-9 (Conf); [CAR-OTP-2048-0171-R03](#), at 0185-0186, paras. 83-88; **P-1647**: [T-194](#), p. 51, lines 12-16 (Conf); [CAR-OTP-2050-0654-R02](#), at 0662, para. 53; **P-1339**: [T-152](#), p. 61, lines 9-12 (Conf) **P-1839**: [T-171](#), p. 78, lines 19-22 (Conf) **P-1786**: [CAR-OTP-2058-0200-R03](#), at 0205, para. 28; **P-1858**: [T-185](#), p. 26, lines 9-15 (Conf); [CAR-OTP-2063-0050-R04](#), at 0063, 0065 paras. 82, 94; [CAR-OTP-2065-2169](#), from [00:00:00] to [00:02:56] and its transcript and translation [CAR-OTP-2127-3719](#) and [CAR-OTP-2127-3615](#), at 3617-3618, lines 1-62; [CAR-OTP-2065-4849](#), from [00:00:00] to [00:01:32] and its transcript and translation [CAR-OTP-2107-3106](#) and [CAR-OTP-2118-5685](#), at 5687-5688, lines 1-57; [CAR-OTP-2065-4946](#), from [00:00:00] to [00:03:34] and its transcript and translation [CAR-OTP-2127-7239](#) and [CAR-OTP-2127-7242](#), at 7244-7245, lines 3-53.

to target Muslim “foreigners” including women and children, to be “slaughtered”, “exterminated”, or at the least made “to leave”.⁸⁴⁷

261. During the 5 December 2013 Attack, YEKATOM led his group – including child soldiers – in the attacks on multiple Seleka positions and Muslim civilians.⁸⁴⁸ Muslim residents of BANGUI and BOEING were killed or forced to flee.⁸⁴⁹

262. YEKATOM ordered his elements to take over the villages along the route from BANGUI to MBAIKI and install checkpoints, murder and displace remaining Muslims. By March 2014, the YEKATOM Group controlled southern CAR and established bases, including in the LOBAYE prefecture along PK9.⁸⁵⁰

d) Conscripting and enlisting children under the age of 15 and using them actively in hostilities

263. Children under the age of 15 were involved in hostilities such as the 5 December 2013 Attack.⁸⁵¹ YEKATOM was fully aware that they were enlisted in his group and

⁸⁴⁷ See **P-1339**: [T-152](#), p. 71, lines 6-15 (Conf); **P-1584**: [CAR-OTP-2056-0447-R03](#), at 0467, para. 130; **P-1704**: [T-128](#), p. 43, lines 2-15 (Conf); [CAR-OTP-2054-1136-R05](#), at 1143, para. 35; **P-1823**: [T-183](#), p. 11, lines 3-6 and p. 12, lines 2-25 (Conf); [CAR-OTP-2063-0369-R02](#), at 0374, para. 29; **P-1839**: [T-171](#), p. 30, lines 16-21 (Conf); [CAR-OTP-2065-0400](#), from [00:00:00] to [00:01:45] and its transcript and translation at [CAR-OTP-2107-6921](#), at 6922, lines 1-37, and [CAR-OTP-2107-7054](#), at 7056, lines 1-37; [CAR-OTP-2002-0039-R01](#), at 0080; **P-1819**: [CAR-OTP-2065-0003-R01](#), at 0017, para. 75; [CAR-OTP-2065-1953](#), from [00:00:00] to [00:02:26] and its transcript and translation at [CAR-OTP-2107-3046](#), at 3047-3048, lines 1-49, and [CAR-OTP-2118-5650](#), at 3051-3052, lines 1-67; [CAR-OTP-2065-3228](#) from [00:00:08] to [00:00:57] and its transcript and translation at [CAR-OTP-2107-0010](#), at 0011, lines 1-28, and [CAR-OTP-2107-0016](#), at 0018, lines 1-33.

⁸⁴⁸ See **P-1339**: [T-152](#), p. 71, lines 20-24 (Conf).

⁸⁴⁹ See **P-1528**: [T-178](#), p. 33, lines 5-13 and p. 35, lines 2-19 (Conf); [CAR-OTP-2048-0757-R05](#), at 0762, paras. 27, 30; **P-1416**: [CAR-OTP-2045-0150-R03](#), at 0159, paras. 76-78; **P-2475**: [T-129](#), p. 41, lines 12-23 (Conf); **P-2682**: [T-017](#), p. 34, lines 6-14 (Conf) and [T-018](#), p. 35, lines 1-15 (Conf); **P-1990**: [T-236](#), p. 17, lines 1-10 (Conf); [CAR-OTP-2124-0247-R02](#), at 0252, para. 24; [CAR-OTP-2073-0258](#); [CAR-OTP-2073-0265](#).

⁸⁵⁰ See **P-0446**: [T-096](#), p. 72, line 14 to p. 73, line 13 (Conf); [CAR-OTP-2059-1672-R02](#), at 1690-1692, lines 659-764; **P-1339**: [T-158](#), p. 12, line 22 to p. 13, line 5 (Conf) **P-1647**: [T-194](#), p. 52, lines 2-24 (Conf) [CAR-OTP-2050-0654-R02](#), at 0660, para. 38; **P-1666**: [T-230](#), p. 36, lines 17-23 (Conf) and [T-231](#), p. 12, lines 4-9 (Conf); **P-1786**: [T-197](#), p. 84, lines 7-10 (Conf); [CAR-OTP-2058-0200-R03](#), at 0207-0208, para. 42; **P-1839**: [T-170](#), p. 42, lines 5-21 (Conf); **P-1858**: [T-185](#), p. 21, lines 1-17 (Conf); [CAR-OTP-2063-0050-R04](#), at 0063, para. 83; **P-2328**: [T-047](#), p. 16, line 13 to p. 17, line 4 (Conf); [CAR-OTP-2099-0255](#), at 0255; **P-1558**: [CAR-OTP-2105-0195-R01](#), at 0204, para. 50.

⁸⁵¹ See **P-2475**: [T-129](#), p. 39, lines 9-10 (Conf).

that some were forcibly recruited.⁸⁵² He ordered their military-style training⁸⁵³ in order to make them participate in attacks⁸⁵⁴ or be present at checkpoints.⁸⁵⁵

264. From December 2013 to August 2014, children under 15 were present at the YAMWARA school base⁸⁵⁶ and other bases and checkpoints under YEKATOM's control.⁸⁵⁷ These included BOEING,⁸⁵⁸ along the PK9-MBAIKI-axis⁸⁵⁹ and along the PISSA-MONGOUMBA axis,⁸⁶⁰ – including BATALIMO.⁸⁶¹

265. Children under the age of 15 had different roles, such as guarding the base,⁸⁶² maintaining security with arms,⁸⁶³ acting as spies,⁸⁶⁴ and were also used in various other ways.⁸⁶⁵

⁸⁵² See **P-2475: T-129**, p. 14, lines 11-19 (Conf); **P-2082: T-217**, p. 19, lines 23-25 and p. 25, lines 17-23 (Conf); **CAR-OTP-2109-0452-R02**, at 0462-0463, paras. 47-48, 53; **P-2083: CAR-OTP-2110-0333-R01**, at 0339, para. 37; **CAR-OTP-2128-1373**.

⁸⁵³ See **P-2475: T-129**, p. 21, lines 8-24 (Conf).

⁸⁵⁴ See **P-2475: T-129**, p. 39, lines 9-17 (Conf).

⁸⁵⁵ See **P-2475: T-129**, p. 57, lines 1-9 (Conf).

⁸⁵⁶ See **P-2475: T-129**, p. 55, lines 4-8 (Conf); **P-1716: T-147**, p. 10, line 24 to p. 11, line 4 (Conf); **CAR-OTP-2053-0062-R05**, at 0069, para. 38; **P-1839: T-170**, p. 66, lines 8-17 (Conf); **CAR-OTP-2065-3843** from [00:00:00] to [00:01:17] and its transcript and translation **CAR-OTP-2107-3077**, at 3078-3079, lines 1-58 and **CAR-OTP-2118-5668**, at 5670-5671, lines 1-58; **CAR-OTP-2087-2805** from [00:00:00] to [00:03:15] and its transcript **CAR-OTP-2122-7413**, at 7414, lines 3-31; **P-2587: CAR-OTP-2120-0211-R02**, at 0219, para. 43.

⁸⁵⁷ See **P-1974: T-227**, p. 19, lines 1-21 (Conf); **CAR-OTP-2068-0222-R05**, at 0225-0227, paras. 20-31; **P-2018: T-222**, p. 23, lines 10-24 (Conf); **CAR-OTP-2071-0308**; **P-2475: T-129** p. 55, line 22 to p. 56, line 5 (Conf) and **T-130**, p. 11, line 18 to p. 12, line 25 (Conf); **P-2082: T-217**, p. 16, lines 10-15 (Conf); **CAR-OTP-2109-0452-R02**, at 0462, para. 49.

⁸⁵⁸ See **P-2475: T-129**, p. 68, lines 8-16 (Conf).

⁸⁵⁹ See **P-1813: T-180**, p. 47, lines 1-6 (Conf); **CAR-OTP-2083-0279-R01**, at 0283, paras. 21-23; **P-2475: T-130**, p. 12, lines 21-25 (Conf); **CAR-OTP-2068-0558**, at 0559, 0562 and 0564; **P-2084: T-233**, p. 14, lines 5-18 (Conf); **CAR-OTP-2094-0968-R02**, at 0985, para. 87.

⁸⁶⁰ See **P-1974: T-227**, p. 58, lines 1-5 (Conf); **CAR-OTP-2068-0222-R05**, at 0226, para. 26; **CAR-OTP-2068-0558**, at 0559, 0562 and 0564; **P-2475: T-130**, p. 13, lines 4-8 (Conf).

⁸⁶¹ See **CAR-OTP-2128-1373**; **CAR-OTP-2068-0558**, at 0559, 0562 and 0564; **CAR-OTP-2109-0473**, at 0476.

⁸⁶² See **P-2476: T-213**, p. 23, lines 18-22 (Conf); **CAR-OTP-2114-0149-R05**, at 0154-0155, paras. 33-35.

⁸⁶³ See **P-2084: T-233**, p. 14, lines 5-18 (Conf); **CAR-OTP-2094-0968-R02**, at 0985-0986, paras. 87-89; **P-2476: T-213**, p. 21, lines 1-3 (Conf); **CAR-OTP-2114-0149-R05**, at 0154-0155, para. 35.

⁸⁶⁴ See **P-2018: T-222**, p. 24, lines 4-7 (Conf).

⁸⁶⁵ See *supra*, paras. 85-119.

3. YEKATOM's *mens rea*

266. YEKATOM committed and contributed to the commission of the crimes described. He, members of his group, and other FACA members planned and agreed to violently target the Muslim civilian population in BANGUI, including CATTIN, BOEING, and other areas in southwestern CAR, such as along the PK9-MBAIKI-axis, pursuant to the Common Purpose and Criminal Policy.

267. YEKATOM was aware of the consequences of the commission of these crimes as he told his elements that the purpose of the training was “*so they could kill Muslims and Selekas*”.⁸⁶⁶ He gathered his group in order to violently target Muslim civilians as they were considered collectively responsible or complicit with the Seleka.⁸⁶⁷

268. YEKATOM kept [REDACTED] in leadership positions despite their intention to commit violence against Muslim civilians.⁸⁶⁸ [REDACTED] already expressed their will to slaughter the Muslim population – including pregnant women and babies.⁸⁶⁹

⁸⁶⁶ See **P-1339**: [T-152](#), p. 16, lines 18-24 (Conf).

⁸⁶⁷ See **P-1339**: [T-152](#), p. 18, lines 13-25 (Conf).

⁸⁶⁸ See **P-1647**: [T-195](#), p. 52, lines 2-3 (Conf); [CAR-OTP-2050-0654-R02](#), at 0662, para. 51; **P-1839**: [T-170](#), p. 47, lines 17-23 (Conf) and [T-171](#), p. 35, lines 5-19 (Conf); **P-1339**: [T-151](#), p. 45, lines 8-25 (Conf) and [T-159](#), p. 21, line 18 to p. 22, line 19 (Conf); **P-0954**: [T-166](#), p. 50, lines 14-19 (Conf); [CAR-OTP-2048-0171-R03](#), at 0185, para. 80; [CAR-OTP-2039-0063](#), at 0063-0064; **P-1786**: [T-197](#), p. 60, line 23 to p. 61, line 2 (Conf); [CAR-OTP-2058-0200-R03](#), at 0210, paras. 56-58.

⁸⁶⁹ See **P-1819**: [CAR-OTP-2065-0003-R01](#), at 0016-0019, 0025-0031 paras. 71-82, 126-164; [CAR-OTP-2065-0436](#), from [00:00:00] to [00:00:57] and its transcript [CAR-OTP-2107-1539](#), at 1540, lines 1-18; [CAR-OTP-2065-3188](#), from [00:00:00] to [00:01:02] and its transcript [CAR-OTP-2107-1547](#), at 1548, lines 1-20; [CAR-OTP-2065-3172](#), from [00:00:00] to [00:01:35] and its transcript and translation [CAR-OTP-2107-3053](#), at 3054, lines 1-35, and [CAR-OTP-2107-3056](#), at 3058-3059, lines 1-38; [CAR-OTP-2065-4930](#), from [00:00:00] to [00:01:27] and its transcript [CAR-OTP-2107-1557](#), at 1558, lines 1-35; [CAR-OTP-2065-5404](#), from [00:00:00] to [00:00:45] and its transcript and translation [CAR-OTP-2107-3143](#), at 3144, lines 1-15, and [CAR-OTP-2118-5707](#), at 5709, lines 1-18; [CAR-OTP-2065-3776](#), from [00:00:18] to [00:00:56] and its transcript and translation [CAR-OTP-2107-6930](#) at 6931, lines 1-28; and [CAR-OTP-2122-2300](#), at 2302, lines 1-28; [CAR-OTP-2065-4918](#), from [00:00:00] to [00:00:36] and its transcript and translation [CAR-OTP-2107-3116](#), at 3117, lines 1-23, and [CAR-OTP-2118-5691](#), at 5693, lines 1-23; [CAR-OTP-2065-5392](#), from [00:00:00] to [00:03:16] and its transcript and translation [CAR-OTP-2107-3135](#) and [CAR-OTP-2118-5702](#), at 5704-5706, lines 1-91; [CAR-OTP-2065-0802](#), from [00:00:33] to [00:01:41] and its transcript and translation [CAR-OTP-2107-3039](#), at 0340-0341, lines 16-66 and [CAR-OTP-2118-5646](#), at 5648-5649, lines 18-66; [CAR-OTP-2065-3452](#), from [00:00:00] to [00:01:27] and its transcript and translation, [CAR-OTP-2118-0008](#) and [CAR-OTP-2125-0474](#), at 0476, lines 1-27; [CAR-OTP-2065-3560](#), from [00:00:00] to [00:00:54] and its transcript and translation [CAR-OTP-2107-3060](#) at 3061, lines 1-21, and [CAR-OTP-2118-](#)

269. YEKATOM's *mens rea* is shown by participation in the charged crimes through planning, ordering, and leading the attacks against Muslims civilians in BANGUI – including CATTIN,⁸⁷⁰ BOEING,⁸⁷¹ and along the PK9-MBAIKI-axis.⁸⁷²

270. YEKATOM's *mens rea* in the enlistment and conscription of children under the age of 15 into his Anti-Balaka armed group and their active use in hostilities is shown by his ordering to participate in operations, including the 5 December 2013 Attack, his stationing them amongst others at the YAMWARA school base and his consenting to demobilise in August 2014 153 children being part of his group,⁸⁷³ which included several ones under the age of 15 as well as his further negotiated undertaking to refrain from re-recruiting children.⁸⁷⁴

271. YEKATOM was aware of - or should have known– the following circumstances: (i) the existence of an armed conflict;⁸⁷⁵ (ii) the attacks in the relevant locations included Muslim civilian population and non-military objectives;⁸⁷⁶ (iii) the persons killed, mutilated, displaced, tortured or subject to cruel treatment were civilians not taking

[5658](#), at 5660, lines 1-23; [CAR-OTP-2065-5140](#), from [00:00:00] to [00:00:22] and its transcript [CAR-OTP-2107-3364](#), at 3365, lines 1-11.

⁸⁷⁰ See **P-1339: T-152**, p. 79, lines 12-19 (Conf); [CAR-OTP-2012-0523](#), from [00:16:25] to [00:16:56] and its transcript [CAR-OTP-2118-5547](#) at 5562, lines 440-442; **P-2328: T-047**, p. 54, lines 7-15 (Conf) ; **P-1528: T-178**, p. 32, lines 1-21 (Conf); [CAR-OTP-2048-0757-R05](#), at 0762, para. 30.

⁸⁷¹ See **P-1339: T-152**, p. 71, lines 20-24 (Conf); **P-2475: T-129**, p. 39, lines 14-16 (Conf).

⁸⁷² See **P-0446: T-096**, p. 45, lines 15-24 (Conf); [CAR-OTP-2059-1672-R02](#), at 1690-1692, lines 659-764; **P-1339: T-152**, p. 60, lines 14-21 (Conf); **P-1647: T-194**, p. 51, line 20 to p. 52, line 7 (Conf) ; [CAR-OTP-2050-0654-R02](#), at 0660, para. 38; **P-1666: T-230**, p. 32, line 20 to p. 33, line 19 (Conf); **P-1786: T-197**, p. 84, lines 7-10 (Conf); [CAR-OTP-2058-0200-R03](#), at 0207-0208, para. 42; **P-1839: T-170**, p. 46, lines 1-17 (Conf); **P-1858: T-185**, p. 21, lines 8-11 (Conf); [CAR-OTP-2063-0050-R04](#), at 0063, para. 83; **P-2328: T-047**, p. 64, lines 1-20 (Conf); [CAR-OTP-2099-0255](#), at 0255; **P-1558: CAR-OTP-2105-0195-R01**, at 0204, para. 50.

⁸⁷³ See **P-1974: T-227**, p. 16, lines 4-25 and p. 26, lines 19-25 (Conf); [CAR-OTP-2068-0222-R05](#), at 0228, paras. 37-40; **P-2018: T-223**, p. 57, lines 4-6 (Conf).

⁸⁷⁴ See **P-1558: CAR-OTP-2105-0195-R01**, at 0202, para. 39 ; [CAR-OTP-2128-1373](#); **P-1974: T-227**, p. 45, lines 1-22 (Conf); [CAR-OTP-2068-0222-R05](#), at 0228-0229, paras. 38-46; **P-2018: T-222**, p. 34, lines 1-6 (Conf); [CAR-OTP-2068-0586](#), from [00:00:00] to [00:06:46] and its transcript and translation [CAR-OTP-2107-3148](#) and [CAR-OTP-2118-5710](#), at 5712-5715, lines 1-133; [CAR-OTP-2068-0558](#), at 0559-0560; **P-2475: T-130**, p. 60, line 23 to p. 61, line 11 (Conf); **P-2082: T-218** p. 72, lines 7-11 (Conf); [CAR-OTP-2109-0452-R02](#), at 0460, 0465, paras. 37, 64, 66-67.

⁸⁷⁵ See *supra*, paras. 15-20.

⁸⁷⁶ See *supra*, paras. 258 and 260.

part in the hostilities;⁸⁷⁷ and that (iv) children under the age of 15 were enlisted and conscripted by the Anti-Balaka and the YEKATOM Group and actively used in hostilities.⁸⁷⁸

272. As a military commander – or a person acting as such – YEKATOM did not take any actions to prevent or repress the commission of these crimes by him or his subordinates.

IX. CONCLUSION

273. In light of the aforementioned, the CLR1 submits that based on the evidence on the record it has been established beyond reasonable doubt that YEKATOM is **GUILTY** of the commission of the crimes under article 8(2)(e)(vii) of the Statute, namely the enlistment and conscription of children under the age of 15 into his Anti-Balaka armed group, and their active use in hostilities, and shall bear criminal responsibility pursuant to article 25(3)(a) and 25(3)(b) accordingly.

RESPECTFULLY SUBMITTED,



Dmytro Suprun
Common Legal Representative of the Former Child Soldiers

Dated this 22nd Day of November 2024
At The Hague, The Netherlands

⁸⁷⁷ *Ibid.*

⁸⁷⁸ See *supra*, paras. 263-265.