

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: **English**

No.: **ICC-01/14-01/18**

Date: **03 March 2021**

**TRIAL CHAMBER V**

**Before:** Judge Bertram Schmitt, Presiding Judge  
Judge Péter Kovács  
Judge Chang-ho Chung

**SITUATION IN THE CENTRAL AFRICAN REPUBLIC II  
IN THE CASE OF *PROSECUTOR v. ALFRED YEKATOM AND  
PATRICE-EDOUARD NGAÏSSONA***

**Public**

**Public redacted version of “Prosecution’s Trial Brief”,  
10 November 2020, (ICC-01/14-01/18-723-Conf)**

**Source:** Office of the Prosecutor

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## I. INTRODUCTION

### A. GENERAL

1. In accordance with the Chamber's Order,<sup>1</sup> the Prosecution submits its Trial Brief ("Brief"). The Brief sets out detailed submissions on points of fact and law, including the elements of the crimes and modes of liability charged, and the relevant evidence. It further summarises the Prosecution's case theory and the principal evidence.

2. The primary accusatory instrument is the Decision on the Confirmation of Charges as corrected,<sup>2</sup> which incorporates by reference specific provisions of the Document Containing the Charges ("DCC").<sup>3</sup> Thus, the Brief is intended to complement those instruments for notice purposes, facilitate the Parties' and Participant's preparation, and advance their and the Chamber's understanding of salient and dispositive issues in the case. The Brief is not intended to limit the Prosecution's prospective submission of relevant and probative evidence.<sup>4</sup>

### B. STRUCTURE OF THE BRIEF

3. This brief is organised in eight sections. Following the introduction, Part II provides a brief summary of the backgrounds and roles of the Accused. Part III, sets out the applicable law concerning the contextual elements of crimes against humanity and war crimes. Part IV provides a chronological overview of the context in which the crimes were committed and the Accused's roles within this context. Parts V and VI describe **NGAISSONA's** and **YEKATOM's** individual criminal responsibility, respectively. Finally, before the conclusion, Part VII, sets out in detail the factual circumstances and the charges.

## II. BRIEF SUMMARY

4. From at least June 2013, Patrice-Edouard **NGAISSONA** ("**NGAISSONA**"), former President of the Central African Republic ("**CAR**") Francois **BOZIZE** ("**BOZIZE**"),

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<sup>1</sup> ICC-01/14-01/18-589, p.10.

<sup>2</sup> ICC-01/14-01/18-403-Conf-Corr ("Confirmation Decision").

<sup>3</sup> ICC-01/14-01/18-282-Conf-AnxB1("DCC").

<sup>4</sup> The Prosecution reserves its right to make such other and further applications pursuant to Regulation 55 of the Regulations of the Court ("RoC") as may appropriate. See ICC-01/14-01/18-542, para.16.

Maxime MOKOM (“MOKOM”), Bernard MOKOM (“Bernard MOKOM”), and others, implemented a strategy to reclaim political power from the Seleka armed group (“Seleka”),<sup>5</sup> following BOZIZE’s 24 March 2013 ouster from office in a *coup d’état* (“24 March 2013 Coup”).

5. A member of BOZIZE’s inner circle, **NGAISSONA** assisted in structuring, arming, financing, and organising a fighting force composed, *inter alia*, of members of the former Presidential Guard (“PG”), members of the *Forces Armées Centrafricaines* (“FACA”), pre-existing self-defence groups, new recruits, and others, to forcibly remove the incumbent Seleka regime and re-install the former President. **NGAISSONA** did so fully aware that the fighting force which, by September 2013 became known as the “Anti-Balaka”,<sup>6</sup> would violently target the Muslim civilian population in western CAR, committing the widespread attack that ultimately took place from September 2013 through December 2014 (“Relevant Period”), including the seminal coordinated Anti-Balaka attack of BANGUI on 5 December 2013, and of BOSSANGO.

6. **NGAISSONA** was a principal in the Anti-Balaka. Prior to his formal designation as the group’s National General Coordinator in January 2014, **NGAISSONA** was a *de facto* political Coordinator in the group.<sup>7</sup> MOKOM was its recognised Coordinator for military operations. From its inception, he was aware of the group’s organisational policy, which entailed the violent targeting of the Muslim civilian population in western CAR whom, based on their religious, national or ethnic affiliation, were perceived as collectively responsible for, complicit with, and/or supportive of, the Seleka (“Criminal Policy” and “Common Purpose”). Together with others, **NGAISSONA**’s contributions promoted and encouraged the establishment, implementation, and perpetuation of the Anti-Balaka’s organisational Criminal Policy and Common Purpose that resulted in the commission of the crimes with which he is charged.<sup>8</sup>

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<sup>5</sup> The name “Seleka” refers to the armed group also known as “ex-Seleka” after September 2013. Several senior commanders later formed the *Front populaire pour la renaissance de la Centrafrique* (“FPRC”).

<sup>6</sup> “Anti-Balaka” includes any subgroup or plurality of members/elements thereof, whether or not formally organised or constituted, including YEKATOM’s Group, defined below: see [Section IV.B](#) and in particular [Section IV.B.c](#).

<sup>7</sup> Coordinator” means ‘head’, ‘principle’, ‘leader’ or ‘chief’ of a group or unit within the Anti -Balaka.

<sup>8</sup> Confirmation Decision, para.64, and pp.107, 111.

7. Having fled CAR following BOZIZE's overthrow in March 2013, Alfred **YEKATOM** ("YEKATOM"), a former FACA *caporal chef*, amassed and commanded a group of 3,000 fighters ("YEKATOM's Group"<sup>9</sup>). A senior and powerful Anti-Balaka zone commander, **YEKATOM** trained, structured, and armed his elements. 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 Purpose.

8. **YEKATOM** and as many as 1,500 of his elements participated in the coordinated 5 December 2013 attack on BANGUI, committing crimes in its adjacent neighbourhoods. 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. Further, from at least December 2013, YEKATOM's Group enlisted, conscripted, and used child soldiers under 15 years of age in hostilities.

9. **NGAISSONA** and **YEKATOM** are individually criminally responsible for the Charged Crimes<sup>10</sup> as confirmed on 11 December 2019,<sup>11</sup> as more fully set out in this Brief.

10. **NGAISSONA** bears individual criminal responsibility under article 25(3)(c) and/or article 25(3)(d), for Anti-Balaka crimes committed in the course of the group's attacks on BANGUI and BOSSANGO on 5 December 2013 and in their aftermaths, including crimes committed by **YEKATOM** and his Anti-Balaka Group in and around BANGUI and the LOBAYE Prefecture through 28 February 2014.<sup>12</sup>

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<sup>9</sup> "YEKATOM's Group" includes any subgroup or plurality of members/elements thereof, whether or not formally organised or constituted. YEKATOM's Group is a subgroup of 'Anti-Balaka', as defined above.

<sup>10</sup> The term "Charged Crimes" may relate to all confirmed charges, or the charges as confirmed against either Accused in the operative part of the Confirmation Decision.

<sup>11</sup> See Confirmation Decision.

<sup>12</sup> The Prosecution considered that NGAISSONA's multiple and critical contributions to the Anti-Balaka's Criminal Policy placed him at the apex of the group's decision-making system. Accordingly NGAISSONA was charged as a co-perpetrator under article 25(3)(a) at confirmation on the basis of a 'common plan', as defined by the Appeals Chamber in the *Lubanga* and *Bemba, et al* cases. However, the Pre-Trial Chamber rejected this aspect of the DCC on what appears to be a disagreement with the Appeals Chamber's previous determinations repeatedly affirming the compatibility of the notion of a 'common plan' with the Rome Statute. In so doing, the Pre-Trial Chamber also declined to confirm a number of criminal incidents attributed to NGAISSONA which, while he is not charged with individual responsibility, still feature among the multiple acts and crimes underlying the contextual elements of the Charged Crimes. Although NGAISSONA's responsibility for the Charged Crimes under article 25(3)(c) and (d) was confirmed, given his central position in the Anti-Balaka's apparatus, his conduct essentially contributed to the actions undertaken by the group, including their multiple crimes against civilians. Accordingly, the Prosecution

11. **YEKATOM** bears individual criminal responsibility under article 25(3)(a) and article 25(3)(b), for crimes committed by and/or with YEKATOM's Group in the course of the 5 December 2013 attack on BANGUI and its aftermath, including in the LOBAYE Prefecture, and for the enlistment, conscription and use of children under 15 in hostilities through August 2014.

### III. THE LAW ON CONTEXTUAL ELEMENTS

#### A. CONTEXTUAL ELEMENTS OF CRIMES AGAINST HUMANITY: LEGAL REQUIREMENTS OF ARTICLE 7

12. Article 7's contextual elements for crimes against humanity entail (a) an attack took place, namely "a course of conduct involving the multiple commission of acts referred to in [article 7(1)]"; (b) it was directed "against any civilian population"; (c) it was carried out "pursuant to or in furtherance of a State or organisational policy to commit such attack";<sup>13</sup> (d) it was "widespread" or "systematic"; and (e) the individual acts under article 7 (1) must be committed as "part of" the attack.

*a) The existence of a "course of conduct involving the multiple commission of acts referred to in [article 7(1)]"*

13. An "attack" as defined in article 7 constitutes a "course of conduct involving the multiple commission of acts referred to in article 7, paragraph 1".<sup>14</sup> In turn, a "course of conduct" can be conceived of as a "series or overall flow of events as opposed to a mere aggregate of random

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respectfully invites the Trial Chamber to keep these considerations in mind when reading this Brief and subsequently hearing the evidence in this case, and to give prompt notice under regulation 55(2) of the Regulations of the Court, should it conclude that the facts and circumstances pleaded and the evidence led at trial support the *possible* characterisation of NGAISSONA's conduct under article 25(3)(a). In this sense, the Prosecution recalls the Chamber's findings that (a) it is not bound by the Pre-Trial Chamber's legal conclusions; and (b) there is no reason for it to depart from the existing jurisprudence of the Court (*Lubanga and Bemba, et al*) regarding co-perpetration (see ICC-01/14-01/18-703-Conf, paras.25-26).

<sup>13</sup> *Prosecutor v. Laurent Gbagbo ('Gbagbo case')*, Decision on the confirmation of charges against Laurent Gbagbo, ICC-02/11-01/11-656-Red ("[Gbagbo CD](#)"), para.207; *Prosecutor v. Charles Blé Goudé ('Blé Goudé case')*, Decision on the confirmation of charges against Charles Blé Goudé, ICC-02/11-02/11-186 ("[Blé Goudé CD](#)"), para.125.

<sup>14</sup> Article 7(2)(a) of the Statute; Elements of Crimes, Introduction to Article 7, para.3.

acts”.<sup>15</sup> The term ‘attack’ need not constitute a “military attack”;<sup>16</sup> it encompasses any mistreatment of the civilian population.<sup>17</sup>

14. Although only article 7(1)(a) to (k) may be relied upon to demonstrate the multiple commission of acts constituting an ‘attack’ under article 7(1), acts other than those enumerated may be nevertheless considered for other purposes. For instance, they can assist the determination whether the attack was directed against a civilian population, or whether it was carried out pursuant to, or in furtherance of, a State or organisational policy.<sup>18</sup>

15. The term “multiple” as concerns the commission of the constituent acts of an attack, is distinct from the requirement that the attack be “widespread”,<sup>19</sup> and thus requires a lesser quantitative threshold.<sup>20</sup> As long as the course of conduct involves the commission of “a certain number of acts”<sup>21</sup>, their precise number need not be determined.<sup>22</sup>

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<sup>15</sup> *Prosecutor v. Bosco Ntaganda* (‘Ntaganda Case’), Judgment, ICC-01/04-02/06-2359, ([“Ntaganda TJ”](#)), para.662; [Gbagbo CD](#), para.209; *Prosecutor v. Jean-Pierre Bemba Gombo* (‘Bemba case’), Judgment pursuant to Article 74 of the Statute, ICC-01/05-01/08-3343 ([“Bemba TJ”](#)), para.149. *Contra*, *Prosecutor v. Jean-Pierre Bemba Gombo* (‘Bemba case’), *Appeal Judgement*, Separate opinion Judge Christine Van den Wyngaert and Judge Howard Morrison, ICC-01/05-01/08-3636-Anx2 ([“Bemba AJ Separate Opinion of Judges Van den Wyngaert and Morrison”](#)), para.66, where Judges Van den Wyngaert and Morrison express their view that “a ‘course of conduct’ does not exist independently from the individual criminal acts, it is merely the sum of these acts”.

<sup>16</sup> Elements of Crimes, Introduction to Article 7, para.3; [Ntaganda TJ](#), para.662; [Bemba TJ](#), para.149; *The Prosecutor v. Germain Katanga* (‘Katanga case’), Judgment pursuant to article 74 of the Statute, ICC-01/04-01/07-3436-tENG ([“Katanga TJ”](#)), para.1101; *Situation in the Republic of Côte d’Ivoire*, Corrigendum to “Decision Pursuant to Article 15 of the Rome Statute on the Authorisation of an Investigation into the Situation in the Republic of Côte d’Ivoire”, ICC-02/11-14-Corr, ([“Côte d’Ivoire Article 15 Decision”](#)), para.31.

<sup>17</sup> *Prosecutor v. Dragoljub Kunarac Radomir Kovac and Zoran Vukovic*, Judgement, Case No. IT-96-23& IT-96-23/1-A, 12 June 2002, ([“Kunarac AJ”](#)), para.86; *Prosecutor V Radovan Karadžić*, Case No. IT-95-5/18-T, 24 March 2016 ([“Karadzic TJ”](#)), para.473.

<sup>18</sup> [Bemba TJ](#), para.151; [Ntaganda TJ](#), para.663; [Katanga TJ](#), para.1138.

<sup>19</sup> [Bemba TJ](#), fn.371; *Prosecutor v. Laurent Gbagbo* (‘Gbagbo case’), Amicus Curiae Observations of Professors Robinson, deGuzman, Jalloh and Cryer, ICC-02/11-01/11-534 (‘[Gbagbo Amicus Submission](#)’), paras.7-13. Professor Robinson, part of the Canadian delegation, was “one of the leading negotiators on Article 7 of the Statute”: Kress, p.868; see also article 7(1).

<sup>20</sup> See [Gbagbo Amicus Submission](#), para.10; see [Bemba TJ](#), para.150; [Katanga TJ](#), para.1101; see also [Bemba CD](#), para.81 (holding that “[t]he legal requisite of ‘multiple commission of acts’ means that more than a few isolated incidents or acts as referred to in article 7(1) of the Statute have occurred.” The Chamber in that case relied on R. Dixon in: O. Triffterer (ed.), *Commentary on the Rome Statute of the International Criminal Court - Observer's Notes, Article by Article* (Nomos Verlag, 2nd ed., 2008), paras.234-235. See also *Prosecutor v. Callixte Mbarushimana* (‘Mbarushimana case’), Decision on the Confirmation of charges, ICC-01/04-01/10-465-Red ([“Mbarushimana CD”](#)), Dissenting Opinion Judge Monageng, para.22 (concluding that the requirements for an attack are met where “dozens of civilians were murdered [and] civilians were raped and subjected to mutilation and cruel treatment”).

<sup>21</sup> [Ntaganda TJ](#), para.663.

<sup>22</sup> [Bemba TJ](#), para.150; see similarly, [Kunarac AJ](#), paras.96, 100; *Prosecutor v. Zoran Kupre[k]et al*, Judgement, Case No. IT-95-16-T, 14 January 2000, ([“Kupreskic TJ”](#)), para.550.

16. An attack involving multiple acts may be proved beyond a reasonable doubt, even absent proof to that same standard of every individual constituent act: each act must fall within the course of conduct and be supported by credible and reliable evidence. Separately, all acts cumulatively must satisfy the existence of the *course of conduct* as defined by article 7(2)(a).<sup>23</sup> In essence, what must be proved beyond reasonable doubt is the “existence of the forest” (the attack), not each individual tree (each individual act).<sup>24</sup>

17. A “course of conduct” may be established by various means, including *evidence* of acts for which an accused is not allegedly criminally responsible (“uncharged acts”).<sup>25</sup> As the

<sup>23</sup> [Ntaganda TJ](#), para.663.

<sup>24</sup> [Gbagbo Amicus Submission](#), para.42. cf. Chaitidou, paras.92-93. See [Bemba AJ Separate Opinion of Judges Van den Wyngaert and Morrison](#), para.60 (“the standard of proof applies to the existence of the ‘forest’ (that is, the course of conduct involving the multiple commission of acts referred to in article 7(1) of the Statute) and not to the existence of individual ‘trees’ (that is, the individual crimes that together constitute ‘multiple commission’)”). *Contra*, *Prosecutor v. Laurent Gbagbo* (‘Gbagbo case’), Dissenting Opinion of Judge Geoffrey Henderson, ICC-02/11-01/15-1188-Anx (“[Gbagbo LRV Decision, Dissenting Opinion Judge Henderson](#)”), para.7 (requiring that “each incident meets the requisite standard of proof”); see further *Prosecutor v. Laurent Gbagbo* (‘Gbagbo case’), Dissenting opinion of Judge Silvia Fernandez de Gurmendi, ICC-02/11-01/11-432-Anx-Corr, (“[Gbagbo Adjournment Decision, Dissenting Opinion. Judge Fernandez](#)”), para.42 (“[t]he term ‘incident’ has no specific legal meaning [...], although it may be of certain practical value in the analysis of the evidence and the construction of a narrative of relevant facts as it appears to refer to an event within certain temporal and territorial parameters”); see also *Prosecutor v. Laurent Gbagbo* (‘Gbagbo case’), Judgment on the appeal of the Prosecutor against the decision of Pre-Trial Chamber I of 3 June 2013 entitled “Decision adjourning the hearing on the confirmation of charges pursuant to article 61(7)(c)(i) of the Rome Statute”, ICC-02/11-01/11-572 (“[Gbagbo Adjournment AD](#)”), paras.53-54; [Bemba TJ](#), paras.563, 671-672. See, at the lower article 61 standard of proof, *Prosecutor v. Dominic Ongwen* (‘Ongwen case’), Decision on the confirmation of charges against Dominic Ongwen, ICC-02/04-01/15-422-Red, (“[Ongwen CD](#)”), paras.60-63; *Prosecutor v. Bosco Ntaganda* (‘Ntaganda Case’), Decision Pursuant to Article 61(7)(a) and (b) of the Rome Statute on the Charges of the Prosecutor Against Bosco Ntaganda, ICC-01/04-02/06-309, (“[Ntaganda CD](#)”), paras.22-30; *Prosecutor v. Charles Blé Goudé* (‘Blé Goudé case’), Decision on the confirmation of charges against Charles Blé Goudé, ICC-02/11-02/11-186, (“[Blé Goudé CD](#)”), para.131; *Prosecutor v. William Samoei Ruto and Joshua Arap Sang*, (‘Ruto case’), Decision on the Confirmation of Charges Pursuant to Article 61(7)(a) and (b) of the Rome Statute, ICC-01/09-01/11-373 (“[Ruto CD](#)”), paras.175-178; *Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui*, (‘Katanga case’), Decision on the confirmation of charges (“[Katanga CD](#)”), paras.408-411; See e.g. ECCC, Case 002/01 Judgement, 002/19-09-2007/ECCC/TC, 7 August 2014 (“[Nuon and Khieu TJ](#)”), paras.169-173, 193 (finding a widespread attack based on a summary assessment of the events that occurred between 17 April 1975 and 6 January 1979); *Prosecutor v. Charles Ghankay Taylor*, Judgement, SCSL-03-01-1281, 18 May 2012, (“[Taylor TJ](#)”), paras.518-546, 556, 558 (finding a widespread attack based on a general overview of the events that occurred between 30 November 1996 and 18 January 2002); *Prosecutor v. Mitar Vasiljevic*, Judgement, Case No IT-98-32, 29 November 2002, (‘[Vasiljević TJ](#)’), paras.51-56, 58 (finding a widespread (and systematic) attack based on a summary analysis of the relevant context); see also *Prosecutor v. Lukic (Milan) & Lukic (Sredoje)*, Judgment, Case No IT-98-32/1, 20 July 2009, (“[Lukić TJ](#)”), paras.37, 889-895; see *Prosecutor v. Prlić et al.*, Judgement (Volume 3 of 6), Case No IT-04-74, 29 May 2013, (“[Prlić TJ, Vol.III](#)”), paras.638-646; *Prosecutor v. Jean-Pierre Bemba Gombo* (‘Bemba case’), Judgment on the appeal of Mr Jean-Pierre Bemba Gombo against Trial Chamber III’s “Judgment pursuant to Article 74 of the Statute”, ICC-01/05-01/08-3636-Red, (“[Bemba Appeal Judgment](#)”), para.117.

<sup>25</sup> [Bemba Appeal Judgment](#), para.117. See further [Gbagbo Adjournment Decision, Dissenting Opinion. Judge Fernandez](#), paras.40-45; Thus, the “attack” is not the “mechanical aggregate” of specific incidents, which are themselves proved, but rather those incidents are merely *evidence* of the attack.

Appeals Chamber has acknowledged, the contextual elements of crimes against humanity “operates at a higher level of abstraction”.<sup>26</sup>

*b) The course of conduct must be directed against any civilian population*

18. The term “civilian population” denotes a collective, as opposed to individual “civilians”.<sup>27</sup> The presence within the civilian population of individuals who do not come within the definition of civilians does not deprive the population of its civilian character.<sup>28</sup> The civilian population must be the *primary* in the sense of *non-incidental* object of the attack.<sup>29</sup> On the other hand, the civilian population does not need to be the *exclusive* target of the attack: the crime may be established even if the military operation also targeted a legitimate military objective.<sup>30</sup> Thus, the civilian population must be the primary target, and need not be the “purpose or objective” of the attack.<sup>31</sup>

19. To determine whether the civilian population was not an incidental target of the attack one should look at the way in which the attack took place, and not merely focus on its numbers and proportions:

“[one must] consider, inter alia, the means and method used in the course of the attack, the status of the victims, their number, the discriminatory nature of the attack, the nature of the crimes committed in its course, the resistance to the assailants at the time and the extent to which the attacking force may be said to have complied or attempted to comply with the precautionary requirements of the laws of war.”<sup>32</sup>

20. The reference to “any” civilian population simply means that the scope of article 7 is not limited to populations defined by common nationality, ethnicity, or other similar distinguishing

<sup>26</sup> [Bemba Appeal Judgment](#), para.117.

<sup>27</sup> [Ntaganda TJ](#), para.667; [Bemba TJ](#), para.152.

<sup>28</sup> [Ntaganda TJ](#), para.668; [Bemba TJ](#), para.153; [Katanga TJ](#), para.1105. Additional Protocol I, Article 50(3).

<sup>29</sup> [Bemba TJ](#), para.154; [Katanga TJ](#), para.1104; [Bemba CD](#), paras.76 to 77, and fn.99. See also [Karadzic TJ](#), para.474 and authorities referred to in fn.1548-1551.

<sup>30</sup> [Katanga TJ](#), para.802.

<sup>31</sup> *Prosecutor v. Moinina Fofana Allieu Kondewa*, Appeal Judgment, Case No. SCSL-04-14-A, 28 May 2008, (“[Fofana AJ](#)”), para.299; *Prosecutor v. Dragoljub Kunarac, et al*, Case No. IT-96-23-T & IT-96-23/1-T, Judgement, 22 February 2001, (“[Kunarac TJ](#)”), para.579.

<sup>32</sup> [Katanga TJ](#), para.1104. See also [Bemba TJ](#), para.153-154 and ICTY [Kunarac AJ](#), paras.90-91.

features,<sup>33</sup> but extends to groups with any distinguishing features,<sup>34</sup> including (perceived) political affiliation.<sup>35</sup>

21. Similarly, a ‘course of conduct’ directed against a civilian population does not require targeting the group in its entirety.<sup>36</sup> The requirement only entails that civilians were targeted in sufficient numbers, or otherwise in a manner showing that a “population”—rather than specific individuals<sup>37</sup>—was attacked.<sup>38</sup>

22. There is no requirement that the individual victims of the article 7(1) acts charged against an accused must be “civilians”.<sup>39</sup> Rather, it is only necessary that such acts are part of the *attack* directed against the civilian population.

c) *The course of conduct must be carried out “pursuant to or in furtherance of a State or organisational policy to commit such attack”*

23. An “organisation” within the meaning of article 7 need not have ‘state-like’ attributes.<sup>40</sup> It is sufficient that it has resources, means, or capacity to bring about the “course of conduct” described above, and a set of structures or mechanisms sufficient for such purpose.<sup>41</sup> As such, “[t]he formal nature of a group and the level of organisation should not be the defining criterion.

<sup>33</sup> [Bemba TJ](#), para.155; [Katanga TJ](#), para.1103.

<sup>34</sup> [Katanga TJ](#), para.1103; [Côte d’Ivoire Article 15 Decision](#), para.32.

<sup>35</sup> [Gbagbo CD](#), para.209; *Prosecutor v. Francis Kirimi Muthaura et al*, Decision on the Confirmation of Charges Pursuant to Article 61(7)(a) and (b) of the Rome Statute, ICC-01/09-02/11-382-Red, ([“Muthaura, et al CD”](#)), para.110.

<sup>36</sup> [Bemba TJ](#), para.154; [Katanga TJ](#), para.1105.

<sup>37</sup> [Bemba TJ](#), para.154; [Katanga TJ](#), para.1105.

<sup>38</sup> [Kunarac AJ](#), para.90; *Prosecutor v. Mladen Naletilic and Vinko Martinovic*, Judgment, Case No. IT-98-34-T, 31 March 2003, ([“Naletilić TJ”](#)), para.235; [Nuon and Khieu TJ](#), para.182.

<sup>39</sup> [Ntaganda TJ](#), para.669; [Bemba TJ](#), para.156; *Prosecutor v. Mrkšić et al*, Case No. IT-95-13/1-A, Judgement, 5 May 2009, ([“Mrkšić AJ”](#)), para.32 (“whereas the civilian status of the victims, the number of civilians, and the proportion of civilians within a civilian population are factors relevant to the determination of whether the *chapeau* requirement of Article 5 of the Statute that an attack be directed against a ‘civilian population’ is fulfilled, there is no requirement nor is it an element of crimes against humanity that the victims of the underlying crimes be ‘civilians’”); *Prosecutor v. Milan Martić*, Judgment, Case No. IT-95-11-A, 8 October 2008, ([“Martić AJ”](#)), paras.307-314; *Prosecutor v. Kaing Guek Eav*, Judgment, ECCC 001/18-07-2007, 2 August 2010, ([“Kaing Guek Eav alias Duch TJ”](#)), para.311; *Prosecutor v. Issa Hassan Sesay et al.*, Judgement, Case No. SCSL-04-15-T, 2 March 2009, ([“Sesay, et al TJ”](#)), para.82.

<sup>40</sup> See e.g., [Katanga TJ](#), para.1120.

<sup>41</sup> [Katanga TJ](#), para.1119; [Bemba TJ](#), para.158; *Situation in the Republic of Kenya*, Decision Pursuant to Article 15 of the Rome Statute on the Authorization of an Investigation into the Situation in the Republic of Kenya, ICC-01/09-19, ([“Kenya Article 15 Decision”](#)), para.90.

Instead ... a distinction should be drawn on whether a group has the capability to perform acts which infringe on basic human values [...].”<sup>42</sup>

24. The statutory State or organisational “policy” requirement was designed to “screen out ‘ordinary crime’, that is, unconnected crimes committed by diverse individuals”.<sup>43</sup> A ‘policy’ thus ‘links’ the acts comprising an attack.<sup>44</sup> Evidence that an attack was planned, directed, or organised — as opposed to wholly spontaneous or an aggregation of isolated acts of violence — will alone satisfy the policy criterion.<sup>45</sup> However, there is no requirement that a policy has been adopted at the highest levels of an organisation.<sup>46</sup> It is enough that *some part* of the organisation must have at least encouraged the attack either actively or passively,<sup>47</sup> or promoted it.<sup>48</sup>

25. A policy need not entail a precise motive, ideology, or ulterior purpose,<sup>49</sup> nor be defined in such terms.<sup>50</sup> As such, it need not be formalised,<sup>51</sup> bureaucratic, or precise, and it may be implicit.<sup>52</sup> Often, it “will only crystallise and develop as actions are set in train and undertaken

<sup>42</sup> [Muthaura, et al CD](#), para.112.

<sup>43</sup> Robinson (2014), p.111. *See also* paras.107, 111-112, 117-122, 133; Robinson (2015), paras.703, 710; [Gbagbo Amicus Submission](#), para.23, citing to the Supreme Court of Peru in the *Fujimori* case, stating as follows: “the political factor [policy element] requires only that *the casual acts of individuals acting on their own, in isolation, and with no one coordinating them, be excluded...* Such common crimes, even when committed on a widespread scale, do not constitute crimes against humanity, unless they are at least connected in one way or another to a particular State or organisational authority: they must at least be tolerated by the latter.” (emphasis added) (*see Barrios Altos, La Cantuta and Army Intelligence Service Basement Cases*, Case No. AV 19-2001, Sala Penal Especial de la Corte Suprema, 7 April 2009 (Peru) para.715 (*citing* Kai Ambos); translation available [25 Am. U. Int. L. Rev. \(2010\) 657](#)).

<sup>44</sup> *See Prosecutor v. Dusko Tadic et al.*, Opinion and Judgement, Case No. IT-94-I, 7 May 1997, (“[Tadić TJ](#)”), para.653; *see* Hwang, p.503; *see also* p.497; Von Hebel and Robinson, p.95; Robinson (2015), paras.708-711; [Gbagbo Amicus Submission](#), para.22. *See also* Van Schaack, p. 840; *see e.g.* Jalloh, paras.431-432; Sadat, paras.353-354, 371, 376-377; DeGuzman, p.374; Chesterman, paras.316-317; Cryer et al, paras.197-198; Von Hebel and Robinson, p.96; [Gbagbo Amicus Submission](#), para.22. *See further* Luban, paras.90, 97-98, 108.

<sup>45</sup> [Gbagbo CD](#), para.215; [Katanga CD](#), para.396; [Bemba CD](#), para.81; [Côte d’Ivoire Article 15 Decision](#), para.43; [Muthaura, et al CD](#), para.111.

<sup>46</sup> Robinson (2014), p.112; Robinson (2015), p.709; [Gbagbo Amicus Submission](#), para.24. *See also* [Bemba TJ](#), *Prosecutor v. Jean-Pierre Bemba Gombo* (‘*Bemba case*’), Annex II to [Judgment pursuant to Article 74 of the Statute ], ICC-01/05-01/08-3343-AnxII (“[Judge Ozaki’s Opinion](#)”), para.30; *Prosecutor v. Tihomir Blaskic*, *Judgement*, Case No. IT-95-14-T, 3 March 2000, (“[Blaskic TJ](#)”), para.205.

<sup>47</sup> Robinson (2014). The acts or deliberate omissions which substantiate the policy must relate in some way to State agents or members of the organisation (Jalloh, paras.423-424).

<sup>48</sup> Elements of Crimes, Introduction to Article 7, para.3.

<sup>49</sup> [Gbagbo CD](#), para.214; [Bemba TJ](#), para.159; [Katanga TJ](#), para.1108; Ruto CD, para.213.

<sup>50</sup> *See e.g.* [Blaskic TJ](#), para.204; *see also* [Tadić TJ](#), para.653; *see also* [Bemba AJ Separate Opinion of Judges Van den Wyngaert and Morrison](#), paras.69-70 (accepting that the policy need not be formalised and may be inferred from the manner in which the attack occurs).

<sup>51</sup> [Gbagbo CD](#), para.215; [Katanga TJ](#), paras.1109-1110; [Bemba TJ](#), para.160; [Kupreskic TJ](#), para.551.

<sup>52</sup> Robinson (2014), paras.112, 122-130; Robinson (2015), paras.709, 717-720; Werle and Burghardt, p.1155; Robinson (1999), p.51; Robinson (2001), p.77; Hwang, p.503; Cryer et al, p.198; Guilfoyle, p.247;

by the perpetrators. The State or organisational policy may therefore become clear to the perpetrators, as regards its modalities, only in the course of its implementation, such that definition of the overall policy is possible *in retrospect*, once the acts have been committed and in the light of the overall operation or course of conduct pursued.”<sup>53</sup> Indeed, a “State or organisational policy may be part of an ongoing process whose every aspect is not always predetermined before the operation or course of conduct pursued against the targeted civilian population has commenced or even once it has started.”<sup>54</sup>

26. Therefore, an organisational policy may be inferred from a number of factors, including (i) a recurrent pattern of violence; (ii) the use of public or private resources to further the policy; (iii) the involvement of the organisation’s forces in the commission of crimes; (iv) statements, instructions or documentation attributable to the organisation condoning or encouraging the commission of crimes; (v) the existence of a “motive” or “purpose” underlying the policy; and/or (vi) the existence of preparations or collective mobilisation orchestrated and coordinated by the State or the organisation.<sup>55</sup> In addition, a policy may be inferred, including “*in retrospect*”,<sup>56</sup> from the manner by which crimes comprising the attack were perpetrated, or “discernment of, inter alia repeated actions occurring according to a same sequence, or the existence of preparations or collective mobilisation orchestrated and coordinated by that State or organisation”.<sup>57</sup>

27. A case-by-case determination must be made in respect of the involvement of the organisation in an attack.<sup>58</sup> Relevant factors may include evidence that: (i) the group is under a responsible command, or has an established hierarchy; (ii) the group exercises control over part of the territory of a State; (iii) the group has criminal activities against the civilian population as a primary purpose; (iv) the group articulates, explicitly or implicitly, an intention to attack a

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Ambos (2014), p.70; Hall and Ambos, p.245, mn. 109; [Gbagbo Amicus Submission](#), paras.21, 24-26, 29, 32, 36. See e.g. [Bemba CD](#), para.81; [Katanga CD](#), para.396; [Gbagbo CD](#), para.215; [Katanga TJ](#), para.1108 (no “formal design”), 1110 (the policy may “become clear [...] only in the course of its implementation, such that the definition of the overall policy is possible only *in retrospect*”, emphasis supplied).

<sup>53</sup> [Katanga TJ](#), para.1110.

<sup>54</sup> [Katanga TJ](#), para.1110.

<sup>55</sup> [Ntaganda TJ](#), para.674; [Bemba TJ](#), para.159; [Katanga TJ](#), paras.1109-1113; [Ntaganda CD](#), paras.19-21; [Kenya Article 15 Decision](#), paras.87-88; [Gbagbo CD](#), para.214.

<sup>56</sup> [Katanga TJ](#), para.1110 (emphasis in original).

<sup>57</sup> See [Katanga TJ](#), para.1109 (emphasis added).

<sup>58</sup> [Kenya Article 15 Decision](#) para.93.

civilian population; or (v) the group is part of a larger group, which fulfils some or all of the abovementioned criteria.<sup>59</sup>

28. The requirement that the organisation “actively promote or encourage” the attack merely explains that a “policy cannot be inferred solely from the absence of governmental or organisational action”.<sup>60</sup> It can, however, be established by means including evidence of the positive acts of members of the organisation (including at the ‘grass roots’ level), the positive acts taken in response to criminal and other conduct, or indeed by “a deliberate failure to take action” in relevant circumstances.<sup>61</sup>

29. A course of conduct is committed “pursuant to or in furtherance of” an organisational policy, where they are sufficiently linked.<sup>62</sup> Proof that each article 7(1) act was committed pursuant to or in furtherance of an organisational policy is not required, but rather, it is the course of conduct that must take place in that context.<sup>63</sup> Such a link is demonstrated including where the persons who carry out the course of conduct are members of, or associated with, the organisation, and their conduct was envisaged by or consistent with, the policy.<sup>64</sup>

*d) The “widespread” or “systematic” nature of the attack*

30. The term “widespread” connotes the large-scale nature of the attack and the large number of targeted persons.<sup>65</sup> Such attacks may be “massive, frequent, carried out collectively with considerable seriousness and directed against a multiplicity of victims”.<sup>66</sup> The term “widespread” is understood to encompass an attack carried out over a large geographical area, or an attack in a small geographical area, directed against a large number of civilians.<sup>67</sup>

<sup>59</sup> [Kenya Article 15 Decision](#) para.93; [Côte d’Ivoire Article 15 Decision](#), para.46.

<sup>60</sup> See [Elements of Crimes](#), article 7, Introduction, para.3, and fn.6. See also DeGuzman, p.374, fn. 182 (expressing concern that this language, on its face, is too restrictive).

<sup>61</sup> See [Elements of Crimes](#), article 7, Introduction, fn.6. See also Jalloh, paras.425-526; Robinson (2001), paras.76-77.

<sup>62</sup> [Ntaganda TJ](#), para.673; [Bemba TJ](#), para.161.

<sup>63</sup> [Katanga TJ](#), paras.1115-1116.

<sup>64</sup> [Katanga TJ](#), para.1166; [Bemba TJ](#), paras.161, 690.

<sup>65</sup> [Bemba TJ](#), para.163; [Katanga TJ](#), para.1123.

<sup>66</sup> [Gbagbo CD](#), para.222; [Bemba TJ](#), para.163, [Bemba CD](#), para.83.

<sup>67</sup> [Katanga CD](#), para.395; [Côte d’Ivoire Article 15 Decision](#), para.53.

31. Several factors may establish a widespread attack, including, *inter alia*, a broad temporal scope,<sup>68</sup> a large number of acts, a high number of victims, and a large population or area affected.<sup>69</sup>

32. The term “systematic” has been consistently understood in the Court’s jurisprudence as pertaining to the organised nature of the acts of violence and the improbability of their random occurrence.<sup>70</sup> Thus, “[p]atterns of crimes – that is the non-accidental repetition of similar criminal conduct on a regular basis – are a common expression of such systematic occurrence.”<sup>71</sup>

33. Several factors may establish a systematic attack, including, *inter alia*, advance preparation, planning and/or coordination, the involvement of officials or authorities of the State or organisation, or that the acts of violence demonstrate a pattern, including in terms of targeted victims, areas of attack, or *modus operandi* of the perpetrators.<sup>72</sup> Thus, whether (i) identical acts took place or similarities in criminal practices can be identified, or (ii) victims were treated in a similar manner across a wide geographic area may be determinant of systematicity.<sup>73</sup>

*e) Acts committed as “part of” the attack*

34. The acts under article 7(1)(a) to (k) comprising the attack must be committed ‘as part’ of the widespread or systematic attack directed against any civilian population.<sup>74</sup> The existence of such nexus may be determined by several factors, including an objective assessment of the characteristics, aims, nature, and/or consequences of the acts concerned.<sup>75</sup> The temporal and geographical proximity of the acts are also relevant.<sup>76</sup> Further, acts committed *before* or *after*

<sup>68</sup> [Blé Goudé CD](#), para.131; [Onqwen CD](#), para.63; [Ntaganda CD](#), para.24. Contra, [Bemba TJ](#), para.163.

<sup>69</sup> [Gbagbo CD](#), para.224; [Blé Goudé CD](#), para.13; see also [Kunarac AJ](#), para.95.

<sup>70</sup> [Gbagbo CD](#), para.223; [Côte d’Ivoire Article 15 Decision](#), para.54; [Katanga CD](#), para.394; [Katanga TJ](#), para.1123; *Prosecutor v. Harun et al.* (‘Harun et al. Case’), Warrant of Arrest for Ahmad Harun, ICC-02/05-01/07-2, ([“Harun et al., Arrest Warrant Decision”](#)), para.62. See also *Prosecutor v. Tihomir Blaškić*, Judgement, Case No. IT-95-14-A, 29 July 2004, ([“Blaškić AJ”](#)), para.101; [Kunarac AJ](#), para.94. *Prosecutor v. Jean-Paul Akayesu*, Judgement, Case No. ICTR-96-4-T, ([“Akayesu TJ”](#)), para.580; ICTR, *Prosecutor v. Nahimana et al.*, Case No. ICTR-99-52-A, Appeal Judgement, 28 November 2007, ([“Nahimana et al., AJ”](#)), para.920.

<sup>71</sup> [Kunarac AJ](#), para.94 (citing [Kunarac TJ](#), para.430).

<sup>72</sup> [Katanga TJ](#), paras.1158-1162; [Gbagbo CD](#), para.225; [Blé Goudé CD](#), para.132. See also [Kunarac AJ](#), para.95.

<sup>73</sup> [Ntaganda TJ](#), para.693.

<sup>74</sup> [Ntaganda TJ](#), para.696.

<sup>75</sup> [Ntaganda TJ](#), para.696; [Bemba TJ](#), para.165; and [Katanga TJ](#), para.1124.

<sup>76</sup> [Ntaganda TJ](#), para.696.

the core of the attack against the civilian population may, if sufficiently connected, also be considered as part of that attack.<sup>77</sup>

## **B. CONTEXTUAL ELEMENTS OF WAR CRIMES: LEGAL REQUIREMENTS OF ARTICLE 8**

35. The contextual elements of war crimes under article 8(2)(c) and (e), entail that: (a) 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 factual circumstances establishing the existence of an armed conflict.<sup>78</sup>

### *a) Existence of an armed conflict not of an international character*

36. For the purpose of article 8(2)(e), ICC chambers<sup>79</sup> have consistently applied the customary law requirement that a relevant non-international armed conflict exists when there is ‘protracted armed violence between governmental authorities and organised armed groups or between such groups within a State’.<sup>80</sup>

37. The existence of an armed conflict does not depend on the subjective views of the parties to the conflict.<sup>81</sup> Rather, it is objectively determined by the prevailing circumstances.<sup>82</sup> It is distinguished from internal disturbances and tensions, such as riots, isolated or sporadic acts of violence, or other similar acts by the requirements, material to this case, that (i) at least two organised armed groups must be involved in (ii) armed violence of a certain intensity.<sup>83</sup>

<sup>77</sup> [Ntaganda TJ](#), para.696 (citing [Kunarac AJ](#), para.100) (emphasis added).

<sup>78</sup> See article 8 of the Elements (introduction), and elements of the charged article 8(2) crimes.

<sup>79</sup> See [Bemba TJ](#), para.128, [Katanga TJ](#), para.1173, and *Prosecutor v. Thomas Lubanga Dyilo*, (*‘Lubanga case’*), Judgment pursuant to Article 74 of the Statute, ICC-01/04-01/06-2842, ([“Lubanga TJ”](#)), para.533. 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.

<sup>80</sup> See Statute, article 8(2)(f); compare article 8(2)(d). See also *e.g. Prosecutor v. Tadić*, Case No. IT-94-1-A, Decision on the defence motion for interlocutory appeal on jurisdiction, 2 October 1995 ([“Tadić TJ”](#)), para.70.

<sup>81</sup> ICRC 2016 Commentary, paras.210-212.

<sup>82</sup> [Ntaganda TJ](#), para.702.

<sup>83</sup> [Tadić TJ](#), para.562; [Akayesu TJ](#), para.620; *Prosecutor v. Dario Kordić and Mario Čerkez*, Judgement, Case No. IT-95-14/2-A, 17 December 2004, ([“Kordić and Čerkez AJ”](#)), para.341. See also [Bemba TJ](#), para.137; [Katanga TJ](#), para.1187; and [Lubanga TJ](#), para.534.

### *b) Organisation*

38. An organised armed group may be identified by various illustrative and non-exhaustive factors, including: (i) the existence of a command structure, headquarters, the issuance of political statements, and the use of official spokespersons; (ii) a military (operational) capacity, for example, shown by the ability to define a unified military strategy, the use of military tactics, the ability to carry out (large scale or coordinated) operations, the control of territory, or territorial zones of responsibility; (iii) a logistical capacity, including a supply chain for military equipment, the ability to move troops around, to recruit them, or train personnel; (iv) the existence of an internal disciplinary system and the ability to implement international humanitarian law (“IHL”); and (v) the capacity of the leadership to speak or act on behalf of the group’s members in political negotiations and to conclude agreements, such as cease-fire or peace agreements.<sup>84</sup>

### *c) Intensity*

39. The requisite intensity of the conflict may be demonstrated by various illustrative factors, including: (i) the seriousness and frequency of attacks or armed clashes; (ii) the spread of clashes over territory and the group’s control of territory over a period of time; (iii) the existence of ceasefire agreements and the issuance of related orders; (iv) the type and number of armed forces deployed; (v) the types of weapons used; (vi) whether the situation has attracted the attention of the United Nations Security Council (“UNSC”) or involvement of other international organisations; (vii) whether those engaged in hostilities considered themselves bound by IHL; and (viii) the effect of the violence on the civilian population, including the extent to which civilians left the relevant area, and the extent of destruction and the number of casualties.<sup>85</sup>

40. Exercise of a group’s control over part of the territory is not required to qualify a conflict as a non-international armed conflict for the purpose of article 8(2)(e).<sup>86</sup> However, it may be

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<sup>84</sup> See e.g., [Bemba TJ](#), para.134; [Katanga TJ](#), paras.1172-1187; and [Lubanga TJ](#), paras.537-538; see also *Prosecutor v. Ljube Boškoski and Johan Tarčulovski*, Judgement, Case No. IT-04-82-T, 10 July 2008, (“[Boškoski and Tarčulovski TJ](#)”), paras.194-203; *Prosecutor v. Ljube Boškoski and Johan Tarčulovski*, Judgement, Case No. IT-04-82-T, 19 May 2010, (“[Boškoski and Tarčulovski AJ](#)”), paras.19-24.

<sup>85</sup> See e.g. [Lubanga TJ](#), para.538; [Katanga TJ](#), para.1187; [Bemba TJ](#), para.137. See also [Boškoski and Tarčulovski TJ](#), paras.177-178; [Boškoski and Tarčulovski AJ](#), paras 19-24.

<sup>86</sup> See Statute, article 8(2)(f). See also [Katanga TJ](#), para.1186; and [Lubanga TJ](#), paras.536-537.

relevant as a matter of evidence in assessing the requisite level of intensity,<sup>87</sup> or organisation of the relevant group(s), as noted above.

*d) Nexus*

41. The nexus requirement distinguishes war crimes from random or isolated criminal occurrences, or “ordinary crimes”.<sup>88</sup> As such, the conduct at issue must have taken place ‘in the context of’ and been ‘associated with an armed conflict not of an international character’.<sup>89</sup> Although it must be closely linked to the hostilities or the related control of territory by the relevant party,<sup>90</sup> the conduct need not have occurred as part of the hostilities or at a time or place where fighting was actually taking place.<sup>91</sup> However, minimally, the existence of an armed conflict had to have played a substantial part in the perpetrator’s ability or decision to commit the crime or the way in which it was committed.<sup>92</sup> Thus, “[w]hat ultimately distinguishes a war crime from a purely domestic offence is that a war crime is shaped by or dependent upon the environment – the armed conflict – in which it is committed”.<sup>93</sup>

42. As the Appeals Chamber has affirmed, the following factors may be relevant: (i) the perpetrator’s or victim’s status, and the extent of their role(s) in the fighting; (ii) whether the conduct served the ultimate goal of a military campaign; and (iii) whether the crime was committed as part of, or in the context of, the perpetrator’s official duties.<sup>94</sup>

43. Additionally, the perpetrator(s) must be aware of the factual circumstances establishing the existence of the armed conflict.<sup>95</sup> They need not be aware of the legal qualification of the

<sup>87</sup> See e.g. [Al Mahdi TJ](#), para.49 (similar proposition).

<sup>88</sup> See *Prosecutor v. Bosco Ntaganda* (‘Ntaganda case’), Judgement 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”, ICC-01/04-02/06-1962 OA5 (‘[Ntaganda Jurisdiction AJ](#)’), para.2; [Boškoski and Tarčulovski TJ](#), para.293.

<sup>89</sup> Article 8 of the Elements of Crimes (introduction), and the elements of the charged article 8(2) crimes.

<sup>90</sup> [Kunarac AJ](#), para.57.

<sup>91</sup> [Katanga TJ](#), para.1176; see also [Boškoski and Tarčulovski TJ](#), para.293.

<sup>92</sup> [Ntaganda Jurisdiction AJ](#), para.68; see *Prosecutor v. Bosco Ntaganda* (‘Ntaganda case’), Second decision on the Defence’s challenge to the jurisdiction of the Court in respect of Counts 6 and 9, ICC-01/04-02/06-1707 ([Ntaganda Second Jurisdiction Decision](#)), fn.130, (citing [Kunarac AJ](#), para.58; [Bemba TJ](#), para.142; and [Katanga TJ](#), para.1176).

<sup>93</sup> [Kunarac AJ](#), para.58.

<sup>94</sup> See [Ntaganda Jurisdiction AJ](#), para.68; [Bemba TJ](#), para.143. See also [Kunarac AJ](#), para.59.

<sup>95</sup> See article 8 of the Elements of Crimes (“[t]here is only a requirement for the awareness of the factual circumstances that established the existence of an armed conflict that is implicit in the terms “took place in the context of and was associated with”).

events as an international or non-international armed conflict.<sup>96</sup> But, they must be sufficiently aware of the factors indicating the existence of fighting of a certain intensity between at least two organised entities. Thus, their position as a member of an organised armed group is a relevant consideration.<sup>97</sup>

#### IV. THE CONTEXT OF THE CHARGED CRIMES AGAINST HUMANITY AND WAR CRIMES

##### A. BACKGROUND

###### a) *The rising conflict*

44. Around August 2012, the Seleka rose in north-eastern CAR. As an alliance among several discrete CAR militarised groups – the Seleka, a mainly Muslim politico-military coalition opposed to BOZIZE’s regime<sup>98</sup> – emerged for several complex reasons. These included BOZIZE’s 2011 election, amid allegations of serious fraud, the continuation of corrupt practices and nepotism within his administration, the worsening economic condition, and the marginalisation of the largely Muslim population.<sup>99</sup>

45. Michel DJOTODIA (“DJOTODIA”) led the Seleka which, along with CAR nationals, also comprised some Sudanese and Chadians.<sup>100</sup> The Seleka’s 10 December 2012 offensive at NDELE<sup>101</sup> marked a key threshold in its advance on BANGUI.

46. By the end of 2012, BOZIZE, and other members of his government and *Kwa Na Kwa* (“KNK”) political party, began stepping up efforts to mobilise support for his regime, resorting to nationalistic appeals to the exclusion of Muslims and the incitement of hostility against them.<sup>102</sup>

<sup>96</sup> See article 8(a) of the Elements of Crimes (“[t]here 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”); see also [Bemba TJ](#), para.146.

<sup>97</sup> [Ntaganda TJ](#), para.733.

<sup>98</sup> [CAR-OTP-2001-2890](#), at 2897-2898.

<sup>99</sup> **P-2625**: [CAR-OTP-2123-0377-R01](#), at 0381-0382, paras.25-31, [CAR-OTP-2123-0437](#), at 0438-0440, 0443.

<sup>100</sup> [CAR-OTP-2001-2769](#), at 2772. For specific, named ‘perpetrators’ with links to Chad and Sudan, see in particular [CAR-OTP-2001-2769](#), at 2835-2838; and further [CAR-OTP-2001-2564](#), at 2576-2577.

<sup>101</sup> [CAR-OTP-2001-1976](#), at 1979 (in particular para.2), 1987-1988; [CAR-OTP-2001-2769](#), at 2775.

<sup>102</sup> **P-1437**: [CAR-OTP-2047-0257-R02](#), at 0260, para.22.

47. In so doing, BOZIZE turned to his inner circle, including some of the individuals who he relied on in the *coup d'Etat* that brought him to power in 2003 – the so-called *ex-libérateurs*.<sup>103</sup>

48. Just over two weeks after the NDELE offensive, on 27 December 2012, BOZIZE delivered a seminal speech to his supporters at a rally at the *Place de la République* at BANGUI's PK0, anticipating the impending coup.<sup>104</sup> Stoking anti-Muslim fervor, he branded the Seleka and their supporters “foreigners”, saying “*il n'y a aucun Centrafricain parmi eux*”,<sup>105</sup> “*ils ne parlent pas sango, ils ne parlent pas français*”.<sup>106</sup> He referred to Muslims as “Janjaweed”<sup>107</sup>, or “TORO BORO”.<sup>108</sup> And, despite several references to ‘peaceful’ resistance, BOZIZE called on the population, especially the youth, to take up weapons against their ‘enemy’:

“*Levez-vous, ne restez pas dans la brousse, sortez. Armez-vous d'arcs, de couteaux, de tout ce que vous pouvez utiliser [applaudissements]. Dîtes que vous êtes en colère, que vous êtes prêts à mourir, que vous êtes prêts à mourir, que vous êtes prêts à mourir*”.<sup>109</sup>

49. BOZIZE urged vigilance of “foreigners who live in the fenced houses”<sup>110</sup> — a thinly veiled reference to CAR's Muslims, who he branded as complicit in the Seleka's intention to kill:

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<sup>103</sup> For a full overview of the organisations and the individuals concerned, see Annex B (Individuals and Organisations supporting BOZIZE).

<sup>104</sup> [CAR-OTP-2000-0630](#), from [00:00:00] to [00:34:55] and its transcript and translation [CAR-OTP-2060-0623](#) and [CAR-OTP-2060-0678](#), at 0682-0692, *in particular* 1.76-92, 123-157, 192-526. For commentary on the speech, see **P-2232**: [CAR-OTP-2100-2569-R01](#), at 2571, para.7; **P-1847**: [CAR-OTP-2061-1534-R01](#), at 1573-1574, paras.250-253; **P-1437**: [CAR-OTP-2047-0257-R02](#), at 0260, para.22; **P-0461**: [CAR-OTP-2031-0190-R01](#), at 0193, para.20; **P-2200**: [CAR-OTP-2088-2146-R02](#), at 2149, para.19; **P-0876**: [CAR-OTP-2046-0295-R01](#), at 0310, 1.521-532, [CAR-OTP-2046-0370-R01](#), at 0375-0378, 1.180-291, [CAR-OTP-2046-0380-R01](#), at 0381, 0385-0386, 1.12-43, 156-199, [CAR-OTP-2046-0295-R01](#), at 0309, 1.493-509.

<sup>105</sup> [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, 1.200.

<sup>106</sup> [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, 1.202.

<sup>107</sup> [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, 1.89, 137, 156, 199-200.

<sup>108</sup> [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, 1.90. For the definition of Toro Boro, see [CAR-OTP-2089-0143](#), at 0144.

<sup>109</sup> [CAR-OTP-2000-0630](#), from [00:27:38] to [00:30:07] and its transcript and translation [CAR-OTP-2060-0623](#) and [CAR-OTP-2060-0678](#), at 0691, 1.459-461.

<sup>110</sup> [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, 1.204-205.

*“Soyez vigilants dans les différents quartiers; surveillez surtout les étrangers qui vivent dans des concessions clôturées. Ils ont l'habitude de cacher des gens dans leurs concessions. Ils attendent le désordre total avant de sortir et de passer à l'action en vue de tuer les gens, de tuer les gens, de tuer les gens. Surveillez surtout les concessions avec des clôtures encerclez ces concessions, enquêtez”.*<sup>111</sup>

50. At the rally, Levy YAKETE (“YAKETE”) insisted that they were surrounded by traitors (“des Judas”), but that the ‘foreigners’ would have to walk over their dead bodies before they would cede power — “la patrie ou la mort”.<sup>112</sup> He announced the youth’s preparedness to patrol every district and expand COCORA’s presence in every province, stating:

*“[n]ous allons continuer jusque dans toutes les villes provinciales. Nous allons installer des cellules de COCORA dans tous, tous, tous les villages. Nous installerons COCORA dans tous, tous les villages de la RÉPUBLIQUE CENTRAFRICAINE”.*<sup>113</sup>

51. BOZIZE’s speech was widely disseminated and discussed in the media, inciting a growing Anti-Muslim sentiment.<sup>114</sup> At the same time, his Press Director Javon Papa ZAMA (“ZAMA”), Abakar PIKO (“PIKO”), and Severin Vele FAIMIDI (“FAIMIDI”) hosted a program on *Radio Centrafrique* called “yeso alingbi ti inga” (‘what you need to know’), in which they transmitted messages of hatred against opponents of BOZIZE’s regime.<sup>115</sup> David GBANGA (“GBANGA”), the director of Radio Centrafrique and a KNK member, would later participate in meetings in CAMEROON to help organise BOZIZE’s effort to reclaim power, discussed below.<sup>116</sup>

<sup>111</sup> [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, 1.204-208.

<sup>112</sup> [CAR-OTP-2000-0630](#), from [00:25:07] to [00:27:38] and its transcript and translation [CAR-OTP-2060-0623](#) and [CAR-OTP-2060-0678](#), at 0689, 1.397-398, 401-402.

<sup>113</sup> [CAR-OTP-2000-0630](#), from [00:25:07] to [00:27:38] and its transcript and translation [CAR-OTP-2060-0623](#) and [CAR-OTP-2060-0678](#), at 0689, 1.387-389.

<sup>114</sup> See e.g. [CAR-OTP-2101-0462](#), at 0462, 0465-0466; [CAR-OTP-2042-2107](#), from [00:00:00] to [00:06:30]; [CAR-OTP-2000-0724](#), from [00:00:00] to [00:17:01].

<sup>115</sup> **P-2625**: [CAR-OTP-2123-0377-R01](#), at 0384, paras.41-42; [CAR-OTP-2003-0019](#), at 0103-0110, in particular at 0107.

<sup>116</sup> **P-2625**: [CAR-OTP-2123-0377-R01](#), at 0388-0391, paras.63, 69, 72, 75, 78, 80.

52. Days later, on 31 December 2012, BOZIZE repeated his rhetoric, declaring that CAR had become two countries — one belonging to the “Janjaweed”; the other, to true Central Africans.<sup>117</sup>

b) *The militias - COCORA and COAC*

53. The divisive strategy undertaken by BOZIZE and his supporters motivated the earlier creation of COCORA and COAC, two youth militias affiliated with the *Conseil National de la Jeunesse* (“CNJ”) and KNK.<sup>118</sup> Led by YAKETE and Steve YAMBETE (“YAMBETE”) respectively, **NGAISSONA** helped fund both groups.<sup>119</sup>

54. Having been appointed President of the Central African Football Federation in 2008,<sup>120</sup> **NGAISSONA** acquired fame and considerable influence over the youth in BANGUI and the provinces, and importantly, Youth Coordinators organised under the KNK. Through them, **NGAISSONA** held influence over the CNJ.<sup>121</sup>

55. The goal of COCORA and COAC was to defend against the Seleka, and to suppress its supporters and perceived operatives, including Muslims of the Goula, Rounga, Youlou, Kara, Sara, and Hausa ethnicities.<sup>122</sup> Both militias erected barricades and checkpoints throughout

<sup>117</sup> [CAR-OTP-2000-0632](#), from [00:03:23] to [00:05:24], from [00:10:22] to [00:12:31], from [00:14:49] to [00:16:12] and its transcript and translation [CAR-OTP-2060-0631](#) and [CAR-OTP-2060-0693](#), at 0695, 0698-0699, 1.30-40, 105-111, 141-144.

<sup>118</sup> **P-1143**: [CAR-OTP-2058-0227-R02](#), at 0230, paras.19-22; **P-1847**: [CAR-OTP-2122-8251-R01](#), at 8270-8271, paras.176-182; [CAR-OTP-2001-0172](#), at 0180, para.34; [CAR-OTP-2054-1362](#); [CAR-OTP-2122-9914](#).

<sup>119</sup> **P-1584**: [CAR-OTP-2056-0447-R01](#), at 0452, paras.31-32; **P-2232**: [CAR-OTP-2100-2569-R01](#), at 2570-2572, paras.5-9; **P-2625**: [CAR-OTP-2123-0377-R01](#), at 0383, paras.33-35; [CAR-OTP-2003-0019](#), at 0103-0110, *in particular* at 0107; [CAR-OTP-2001-0835](#), at 0876, para.1; [CAR-OTP-2001-2769](#), at 2830; [CAR-OTP-2074-0411](#), at 0420, column 2-3; [CAR-OTP-2088-1574](#), at 1595, 1597; [CAR-OTP-2042-2201](#), from [00:12:30] to [00:14:43] and its transcript [CAR-OTP-2127-4006](#), at 4010, 1.141-165.

<sup>120</sup> Agreed fact A.1 (Second Proposal of Agreements as to Evidence, p.2); [CAR-OTP-2030-0984](#), at 0984; [CAR-OTP-2092-1040](#), at 1040; [CAR-OTP-2003-1076](#), at 1117, 1125; **P-1521**: [CAR-OTP-2046-0603-R01](#), at 0615, para.72.

<sup>121</sup> On **NGAISSONA**’s influence over the Youth Coordination, see **P-2232**: [CAR-OTP-2100-2569-R01](#), at 2570-2571, paras.5-6; **P-2841**: [CAR-OTP-2127-4238-R01](#), at 4244, 4272, paras.33, 186. On the role of the Youth Coordination, see **P-0808**: [CAR-OTP-2093-0010-R01](#), at 0012-0013, paras.13-15, 17-18; See *also above*, para.53.

<sup>122</sup> **P-1584**: [CAR-OTP-2056-0447-R01](#), at 0452-0454, paras.31-43; **P-2625**: [CAR-OTP-2123-0377-R01](#), at 0384, paras.39-40; **P-0589**: [CAR-OTP-2029-0014-R01](#), at 0017-0018, 0025, paras.19-22, 71; **P-0459**: [CAR-OTP-2013-0503-R01](#), at 0506-0507, paras.18-21; [CAR-OTP-2000-0687](#), from [00:00:00] to [00:01:13] and its transcript [CAR-OTP-2107-1493](#), at 1494, 1.3-14; [CAR-OTP-2000-0686](#) [Transcript and/or Translation Request pending with LSU]; [CAR-OTP-2034-0270](#), at 0284-0285, 0294-0295, paras.76-77, 120, 124; [CAR-OTP-2113-0664](#), at 0664-0665; [CAR-OTP-2104-1137](#), at 1137-1138 *in particular* at 1138; [CAR-OTP-2088-1817](#), at 1818, column 3.

BANGUI and BIMBO, and in several instances detained, searched, and arrested Muslims, some of whom were never seen again.<sup>123</sup>

56. At various times from December 2012 onward, COCORA incited the ‘population’ to take up arms against the ‘foreigners’.<sup>124</sup> And, **NGAISSONA** was involved in their arming.<sup>125</sup>

c) *The failed political compromise*

57. To avert his overthrow, on 11 January 2013, BOZIZE signed the first Cease-fire Agreement with the Seleka in LIBREVILLE (“2013 LIBREVILLE Agreement”), negotiating a power sharing deal, which called for the redistribution of certain Government positions.<sup>126</sup>

58. Several appointments were made pursuant to decree number 13.035 of 3 February 2013, which installed, *inter alia*, Nicolas TIANGAYE as Prime Minister, and DJOTODIA as First Vice Prime Minister and Minister of Defence of the new Government of National Unity.<sup>127</sup>

<sup>123</sup> **P-2232**: [CAR-OTP-2090-0561-R03](#), at 0564, para.24, [CAR-OTP-2100-2569-R01](#), at 2571-2572, paras.7-10; **P-0808**: [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**: [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, 1.188-219, 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.

<sup>124</sup> [CAR-OTP-2003-0019](#), at 0103-0110, *in particular* at 0107; [CAR-OTP-2000-0630](#), from [00:27:38] to [00:30:07] and its transcript and translation [CAR-OTP-2060-0623](#), [CAR-OTP-2060-0678](#), at 0691, 1.459-461; [CAR-OTP-2000-0678](#) and its transcript and translation [CAR-OTP-2087-9787](#) and [CAR-OTP-2087-9858](#).

<sup>125</sup> *See above*, para.53 and **P-2625**: [CAR-OTP-2123-0377-R01](#), at 0383, paras.33-35; [CAR-OTP-2074-0411](#), at 0420, column 2-3; [CAR-OTP-2088-1574](#), at 1597.

<sup>126</sup> [CAR-OTP-2054-1342](#); [CAR-OTP-2054-1346](#).

<sup>127</sup> [CAR-OTP-2004-1530](#) (Decree 13.035, 3 February 2013).

59. By the same decree, **NGAISSONA** became Minister of Youth, Sports, Arts, and Culture (“Minister of Youth”),<sup>128</sup> holding the position until 24 March 2013.<sup>129</sup> YAMBETE, who was also close to BOZIZE, was appointed as his ‘*Chargé de missions jeunesse, sports, arts et culture*’.<sup>130</sup> BOZIZE, was said to favour their advice and opinion over others of his supporters who were not of Gbaya ethnicity, such as YAKETE.<sup>131</sup>

**i. Sowing and exploiting division - ‘real’ Central Africans vs. Muslims as ‘foreigners’**

60. In the following weeks, BOZIZE continued to portray the Seleka as *foreigners* intent on harming *real* Central Africans.<sup>132</sup> KNK members YAKETE, YAMBETE, and members of BOZIZE’s government such as *Ambassador* Louis OGUERE NGAIKOUMON (“OGUERE”), publicly echoed these sentiments.<sup>133</sup>

61. **NGAISSONA** expressed similar views.<sup>134</sup> On 8 March 2013, ZAMA delivered a radio address on **NGAISSONA**’s behalf. In it, he called for support against “enemies of the Nation who decided to bring trouble by bringing Sharia law” and who “want to use Islamism to destroy the country”. He sought to galvanise the youth against the so-called

<sup>128</sup> Agreed fact A.3 (Second Proposal of Agreements as to Evidence, p.2); see also [CAR-OTP-2004-1530](#), at 1533 (Decree 13.035, 3 February 2013) (naming **NGAISSONA** Minister of Youth, and Joachim KOKATE (“KOKATE”), Minister of Social Affairs); **P-0889**: [CAR-OTP-2027-2290-R01](#), at 2304, para.86; **P-2232**: [CAR-OTP-2090-0561-R03](#), at 0564, para.24; [CAR-OTP-2066-2466](#), at 2562; [CAR-OTP-2030-0984](#), at 0984.

<sup>129</sup> See below, paras.217-218.

<sup>130</sup> [CAR-OTP-2098-0154](#), at 0154; [CAR-OTP-2113-0664](#), at 0664.

<sup>131</sup> [CAR-OTP-2100-7713](#), at 7742-7743, 12:27:54; [CAR-OTP-2101-7763](#), at 7766, 23/10/2013 12:07:47. On the fact that Gbaya were favoured see e.g. **P-0801**: [CAR-OTP-2074-2159-R01](#), at 2175, l.541-544; **P-0884**: [CAR-OTP-2072-1913-R01](#), at 1942, l.1019-1031; **P-1719**: [CAR-OTP-2062-0039-R02](#), at 0043, para.27.

<sup>132</sup> [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, l.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, l.1-53, in particular at l.36-41, 49-53.

<sup>133</sup> [CAR-OTP-2000-0655](#), from [00:41:27] to [00:41:55] and its transcript at [CAR-OTP-2006-0661](#); [CAR-OTP-2042-2132](#). See also above, para.55, in particular: [CAR-OTP-2000-0668](#), from [00:00:00] to [00:06:05] and its transcript and translation [CAR-OTP-2087-9783](#), [CAR-OTP-2087-9850](#); [CAR-OTP-2042-2137](#), from [00:12:50] to [00:14:40] and its transcript [CAR-OTP-2107-1481](#); [CAR-OTP-2042-2146](#), from [00:15:27] to [00:16:52] and its transcript [CAR-OTP-2107-1485](#); [CAR-OTP-2042-0259](#), from [00:00:00] to [00:02:30], and its transcript and translation [CAR-OTP-2107-2991](#) and [CAR-OTP-2118-5618](#); [CAR-OTP-2042-0262](#), from [00:00:00] to [00:04:20] and its transcript and translation [CAR-OTP-2118-0003](#) and [CAR-OTP-2125-0466](#).

<sup>134</sup> [CAR-OTP-2042-0976](#), from [00:04:37] to [00:07:22] and its transcript [CAR-OTP-2107-1473](#), in particular l.21-23; [CAR-OTP-2042-2144](#), from [00:07:25] to [00:09:25] and its transcript [CAR-OTP-2107-1483](#), in particular l.8-10.

‘foreign invaders’, and to organise a march against the crimes blamed on them — in an appeal to Christians, he said:

*“nous demandons à nos compatriotes, à toutes les églises de ne pas se mettre en marge de cette grande marche. Il faut que des appels soient lancés dans les églises pour la participation à la marche (...) Nous invitons également les pasteurs à prendre part à ces réunions préparatoires (...)”.*<sup>135</sup>

62. Amidst concerns of an impending coup, on 15 March 2013, **NGAISSONA** publicly reaffirmed the youth’s allegiance to BOZIZE and commitment to his defence.<sup>136</sup> The following week, through YAMBETE, **NGAISSONA** told the youth to “stay calm”, and that they would be called upon when needed.<sup>137</sup> Some of the youth mobilised by **NGAISSONA** through his connections and influence<sup>138</sup> at that time, would later participate in the 5 December 2013 Attack on BANGUI.<sup>139</sup>

## ii. The 24 March 2013 Coup

63. Despite the 2013 LIBREVILLE Agreement, and the creation of the Government of National Unity, BOZIZE failed to make good on his undertaking, and the Seleka resumed its offensive, seizing BANGUI in the 24 March 2013 *Coup*.<sup>140</sup>

64. BOZIZE was forced into exile in CAMEROON and later KENYA via FRANCE.<sup>141</sup> **NGAISSONA** similarly fled to CAMEROON, as former members of BOZIZE’s PG and

<sup>135</sup> [CAR-OTP-2000-0680](#), from [00:00:00] to [00:05:37] and its transcript and translation [CAR-OTP-2087-9789](#) and [CAR-OTP-2087-9863](#), at 9865-9866, l.2-15, 41-57.

<sup>136</sup> [CAR-OTP-2000-0658](#), from [00:11:12] to [00:19:46] and its transcript and translation [CAR-OTP-2006-0661](#) and [CAR-OTP-2006-0739](#), at 0743-0744, l.102-172, *in particular* l.157-161.

For earlier support see also: [CAR-OTP-2042-2159](#), from [00:01:15] to [00:03:46] and its transcript [CAR-OTP-2107-1487](#), *in particular* l.12-17.

<sup>137</sup> [CAR-OTP-2042-1783](#), from [00:01:15] to [00:02:36] and its transcript [CAR-OTP-2107-1475](#), at 1476, *in particular* l.13-16.

<sup>138</sup> **P-2232**: [CAR-OTP-2090-0561-R03](#), at 0564, para.24, [CAR-OTP-2100-2569-R01](#), at 2571-2572, paras.6-9.

<sup>139</sup> [CAR-OTP-2001-6251](#), at 6293, para.3; [CAR-OTP-2065-3172](#), from [00:00:00] to [00:01:35] and its transcript and translation [CAR-OTP-2107-3053](#) and [CAR-OTP-2118-5654](#), at 5656-5657, *in particular* l.4-16.

<sup>140</sup> [CAR-OTP-2025-0372](#), at 0374; [CAR-OTP-2025-0396](#), at 0398; [CAR-OTP-2030-0255](#), at 2055-2056.

<sup>141</sup> **P-0876**: [CAR-OTP-2046-0295-R01](#), at 0321, l.933-951; [CAR-OTP-2001-4146](#), at 4147; [CAR-OTP-2079-0551](#), at 0552; [CAR-OTP-2079-0540](#), at 0540.

FACA members, including ranking officers, fled the country along with other members of BOZIZE's inner circle.<sup>142</sup>

65. Immediately following the 24 March 2013 *Coup*, Seleka forces expanded their territorial control, suppressing resistance in regions associated with BOZIZE and his Gbaya ethnic group ("Gbaya").<sup>143</sup> For several months, Seleka forces subjected civilians (mainly non-Muslims<sup>144</sup>) in these regions to brutal attacks and atrocities.<sup>145</sup>

## B. ORIGINS OF THE ANTI-BALAKA

66. After fleeing the 24 March 2013 *Coup*, members of BOZIZE's inner circle began organising a response to the Seleka offensive and a plan to claim or reclaim power in CAR. As members of BOZIZE's Gbaya ethnic group and family,<sup>146</sup> NGAISSONA, Bernard MOKOM,<sup>147</sup> and MOKOM<sup>148</sup> were a part of that inner circle. With operatives situated abroad and within CAR, they planned and coordinated a multifaceted response,

<sup>142</sup> **P-0801:** [CAR-OTP-2074-2021-R02](#), at 2052-2059, 2062, l.1017-1274, l.1372-1388, [CAR-OTP-2074-2065-R01](#), at 2079, 2092, 2101, l.452-463, 916-924, 1240-1242, [CAR-OTP-2074-2580-R01](#), at 2581-2585, l.15-168; **P-2625:** [CAR-OTP-2123-0377-R01](#), at 0388, para.63; **P-1847:** [CAR-OTP-2061-1534-R01](#), at 1539-1542, 1545-1547, 1551-1552, 1561-1562, paras.25-48, 75, 80-87, 109-114, 176; **P-0884:** [CAR-OTP-2072-1541-R01](#), at 1552, l.371-377; [CAR-OTP-2001-4146](#), at 4147; [CAR-OTP-2079-0574](#), at 0574-0575; [CAR-OTP-2088-1179](#), at 1194. On the FACA members and PG fleeing to Cameroon, see **P-1074:** [CAR-OTP-2094-0228-R02](#), at 0242-0243, para.81; **P-1521:** [CAR-OTP-2046-0603-R01](#), at 0607, para.26; **P-1719:** [CAR-OTP-2062-0039-R02](#), at 0043-0045, paras.25, 34-36; [CAR-OTP-2001-4020](#), at 4020.

<sup>143</sup> See e.g. **P-0884:** [CAR-OTP-2072-1913-R01](#), at 1942-1943, l.1034-1056; **P-2027:** [CAR-OTP-2078-0059-R02](#), at 0063, para.30; **P-0808:** [CAR-OTP-2093-0010-R01](#), at 0016, para.34.

<sup>144</sup> 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: [CAR-OTP-2001-3319](#), at 3320.

<sup>145</sup> See e.g. [CAR-OTP-2001-1767](#), at 1782, 1785-1786; [CAR-OTP-2001-1870](#), at 1913; [CAR-OTP-2001-0310](#), at 0310.

<sup>146</sup> On NGAISSONA and BOZIZE's relationship, see [CAR-OTP-2030-0984](#), at 0984; [CAR-OTP-2001-2769](#), at 2829; **P-0808:** [CAR-OTP-2093-0010-R01](#), at 0022, para.62; **P-1074:** [CAR-OTP-2094-0228-R02](#), at 0241, paras.71-72; **P-1576:** [CAR-OTP-2060-0280-R01](#), at 0287, para.41.

On BOZIZE's membership of the Gbaya ethnic group, see **P-0884:** [CAR-OTP-2072-1356-R01](#), at 1375, l.644-648; [CAR-OTP-2002-0335](#), at 0338; [CAR-OTP-2001-2707](#), at 2720.

On NGAISSONA's membership of the Gbaya ethnic group, see **P-0487:** [CAR-OTP-2076-0212-R01](#), at 0217, [CAR-OTP-2076-0516-R03](#), at 0548, l.1144-1146; **P-1962:** [CAR-OTP-2068-0037-R02](#), at 0055, para.86.

<sup>147</sup> On the relationship between MOKOM and BOZIZE, see **P-1847:** [CAR-OTP-2061-1534-R01](#), at 1540, para.33; **P-0808:** [CAR-OTP-2093-0010-R01](#), at 0022, para.62; **P-0889:** [CAR-OTP-2027-2290-R01](#), at 2298, para.48; **P-2673:** [CAR-OTP-2127-6435-R01](#), at 6452, para.108; [CAR-OTP-2023-0032](#), at 0042, para.33.

Bernard MOKOM was also the former sub-prefect of GAMBOULA under BOZIZE's government: **P-1719:** [CAR-OTP-2062-0039-R02](#), at 0043, para.26; [CAR-OTP-2001-5672](#), at 5672; [CAR-OTP-0080-0821](#), at 0823.

<sup>148</sup> Maxime MOKOM was a police officer who had been working in BOZIZE's intelligence: **P-0446:** [CAR-OTP-2059-1626-R01](#), at 1645, l.730-734; **P-0889:** [CAR-OTP-2027-2290-R01](#), at 2295, para.31; **P-2232:** [CAR-OTP-2100-2569-R01](#), at 2593, paras.138-139.

including a strategic military option that would ultimately galvanise, exploit, and coordinate pre-existing self-defence groups<sup>149</sup> intent on violent retribution and vengeance against Muslims for Seleka crimes.

a) *CAMEROON-group*

67. **NGAISSONA** and Bernard MOKOM joined BOZIZE in CAMEROON, where they met with loyal PG and FACA members.<sup>150</sup> They also met with other members of his close entourage including Joachim KOKATE (“KOKATE”), Adrien POUSSOU (“POUSSOU”), OGUERE, YAKETE, GBANGA, and others,<sup>151</sup> to prepare a response to the Seleka offensive and coordinate, *inter alia*, military operations to regain power, including the 5 December 2013 Attack on BANGUI.<sup>152</sup> During one of the first meetings, in **NGAISSONA**’s presence, YAKETE indicated he had elements ready in the field to fight.<sup>153</sup>

68. Meetings took place in YAOUNDE, at BOZIZE’s Hilton Hotel suite,<sup>154</sup> *Cité du Golf* residence<sup>155</sup> (where he stayed with **NGAISSONA** and Bernard MOKOM thereafter<sup>156</sup>),

<sup>149</sup> See for example, **P-1074**: [CAR-OTP-2094-0228-R02](#), at 0238, paras.55-56; **P-2625**: [CAR-OTP-2123-0377-R01](#), at 0388, paras.64-68; **P-2841**: [CAR-OTP-2127-4238-R01](#), at 4250, paras.68-69; **P-2328**: [CAR-OTP-2099-0165-R01](#), at 0172-0173, paras.41, 43; **P-0306**: [CAR-OTP-2118-4791-R01](#), at 4795, l.127-134, [CAR-OTP-2118-4923-R01](#), at 4932-4933, 4937, l.300-307, 343-364, 479-513.

<sup>150</sup> **P-2232**: [CAR-OTP-2090-0561-R03](#), at 0567, paras.39-40; **P-0487**: [CAR-OTP-2076-0168-R01](#), at 0171, l.89-96; **P-0801**: [CAR-OTP-2074-2065-R01](#), at 2092, 2101, l.916-923, 1240-1242, [CAR-OTP-2074-2120-R01](#), at 2141-2142, l.720-748, [CAR-OTP-2074-2159-R01](#), at 2175, l.522-523, [CAR-OTP-2074-2608-R02](#), at 2624, l.531-533; **P-0884**: [CAR-OTP-2072-1541-R01](#), at 1552, l.371-377; **P-2027**: [CAR-OTP-2078-0059-R02](#), at 0069-0070, paras.61-65; **P-1847**: [CAR-OTP-2061-1534-R01](#), at 1551, para.112; **P-2841**, [CAR-OTP-2127-4238-R01](#), at 4250, para.69; **P-2673**: [CAR-OTP-2127-6435-R01](#), at 6452, para.110. On the contact to FACA members and PG who fled to Cameroon, *see above*, para.64.

<sup>151</sup> On meetings with members of his close entourage, *see above*, para.64, *in particular* **P-0801**: [CAR-OTP-2074-2021-R02](#), at 2052-2059, 2062, l.1017-1274, l.1372-1388, [CAR-OTP-2074-2065-R01](#), at 2079, 2092, 2101, l.452-463, 916-924, 1240-1242, [CAR-OTP-2074-2580-R01](#), at 2581-2585, l.15-168; **P-1847**: [CAR-OTP-2061-1534-R01](#), at 1539-1542, 1545-1547, 1551-1552, 1561-1562, paras.25-48, 75, 80-87, 109-114, 176; **P-2625**: [CAR-OTP-2123-0377-R01](#), at 0388-0391, paras.63, 69, 72, 75, 78-80; **P-2841**: [CAR-OTP-2127-4238-R01](#), at 4257, para.113; [CAR-OTP-2079-0574](#), at 0574-0575; [CAR-OTP-2079-0540](#), at 0540; [CAR-OTP-2001-5739](#), at 5793; [CAR-OTP-2003-0019](#), at 0103-0110, *in particular* at 0109.

<sup>152</sup> **P-2625** : [CAR-OTP-2123-0377-R01](#), at 0388-0389, paras.65-71; [CAR-OTP-2003-0019](#), at 0103-0110, *in particular* at 0109; **P-1719**: [CAR-OTP-2062-0039-R02](#), at 0043, para.28; **P-0287**: [CAR-OTP-2115-0239-R01](#), at 0247, paras.40-41; **P-1847**: [CAR-OTP-2061-1534-R01](#), at 1551, 1561, paras.112, 174-175; **P-0801**: [CAR-OTP-2074-2021-R02](#), at 2052-2053, 2056-2058, l.1038-1053, 1159-1241; **P-1074**: [CAR-OTP-2094-0228-R02](#), at 0238, 0241, paras.55-57, 71, 72; [CAR-OTP-2088-1179](#), at 1194; [CAR-OTP-2079-0540](#), at 0540; [CAR-OTP-2001-5739](#), at 5782-5783, 5793.

<sup>153</sup> [REDACTED]

<sup>154</sup> On BOZIZE residing in the Hilton Hotel, *see* [REDACTED]

On meetings at the Hilton Hotel, *see above*, paras.64, 67.

<sup>155</sup> [REDACTED]

<sup>156</sup> [REDACTED]

the CAR Embassy,<sup>157</sup> as well as in DOUALA.<sup>158</sup> The anti-Muslim rhetoric expressed earlier among BOZIZE and those within his circle was also repeated in these meetings. For instance, it was said that the country should not be left to the ‘foreign’ invaders, referring to all Muslims, including CAR nationals.<sup>159</sup>

69. The clear resolve and the point of the several meetings was to galvanise support for, and ensure BOZIZE’s return to power at whatever cost.<sup>160</sup> To that end, the strategy that emerged — already being advanced by **NGAISSONA** and Bernard MOKOM — was committed also to writing.

70. A draft document intended to found BOZIZE’s *Front pour le Retour à l’Ordre Constitutionnel en Centrafrique* (“FROCCA”) was produced in around July 2013. Entitled, *Protocole d’accord politique pour la création du Front pour le Retour à l’Ordre Constitutionnel en Centrafrique* (“FROCCA Protocol Agreement”),<sup>161</sup> the document sets out *inter alia* a « *Plan Stratégique* ». As explained below,<sup>162</sup> this called for the group: (i) to galvanise human resources, financial resources and material; (ii) to procure secure communications against intelligence gathering, including through the provision of Thurayas; (iii) to set up a flexible coordination, capable of fast and efficient strategic action; and (iv) to restore confidence of, and enlist the disillusioned elements of law enforcement, who are only waiting for favourable circumstances to “[r]emettre en confiance et faire adhérer les éléments des forces de l’ordre, désabusés, qui n’attendent que des circonstances favorables pour laver l’affront infligé par des envahisseurs islamistes sans foi ni loi”.<sup>163</sup>

71. In furtherance of this strategy, **NGAISSONA** and Bernard MOKOM financed the transportation of elements from YAOUNDE/DOUALA to the border area, and from

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<sup>157</sup> [REDACTED]

<sup>158</sup> **P-0627**: [CAR-OTP-2102-1265-R01](#), at 1284-1287, l.660-777.

On the presence of FACA in DOUALA, see [REDACTED]

<sup>159</sup> **P-2625**: [CAR-OTP-2123-0377-R01](#), at 0388-0391, paras.65-83, *in particular* para.67; [CAR-OTP-2088-1179](#), at 1181, 1194; **P-0589**: [CAR-OTP-2029-0014-R01](#), at 0024, para.69; **P-0627**: [CAR-OTP-2102-1265-R01](#), at 1285-1287, l.699-782, [CAR-OTP-2102-1506-R02](#), at 1523-1525, l.570-633.

<sup>160</sup> **P-2625**: [CAR-OTP-2123-0377-R01](#), at 0388-0389, paras.65-71, *in particular* para.68.

<sup>161</sup> [CAR-OTP-2124-0852](#).

<sup>162</sup> See below, paras.98-99.

<sup>163</sup> [CAR-OTP-2124-0852](#), at 0855 [*emphasis added*].

CAMEROON back to CAR.<sup>164</sup> Facebook communications<sup>165</sup> among those involved in the operations or with knowledge of the events, corroborate this: they reflect that, in preparation of the BANGUI attack, on or around 24 November 2013, **NGAISSONA** ordered elements in BOUAR to reach BOSSEMBELE in three days.<sup>166</sup> On or around 27 November 2013, **NGAISSONA** and Bernard MOKOM ordered the ‘little ones’ (*i.e.* the Anti-Balaka elements) in ZONGO to cross the (*Oubangui*) river to BANGUI.<sup>167</sup>

72. **NGAISSONA** and Bernard MOKOM also actively helped mobilise, support, and equip Anti-Balaka elements (*i.e.* the collective of self-defence groups, members of the FACA and PG loyal to BOZIZE) in strategic positions along the CAMEROON and CAR border, around GOBERE (near BOSSANGOA), BANGUI, and ZONGO, to prepare and execute attacks against Seleka positions.<sup>168</sup>

#### **i. Border area — BERTOUA-BELOKO-BOUAR-GAROUA-BOULAI**

73. **NGAISSONA** and Bernard MOKOM liaised with Anti-Balaka elements and travelled to the border area to support and encourage them, as well as to transfer money and weapons.<sup>169</sup>

74. Contemporaneous [REDACTED] corroborate this: they reflect, for instance, that **NGAISSONA** and Bernard MOKOM went to BERTOUA and GAROUA-BOULAI in early September 2013 to meet and discuss recruiting into their ranks ‘archers from

<sup>164</sup> On sending elements to the border, especially Gbaya and PG, see **P-1719**: [CAR-OTP-2062-0039-R02](#), at 0042-0045, paras.23-25, 34-36; **P-2673**: [CAR-OTP-2127-6435-R01](#), at 6443-6445, 6449, 6452, 6460-6461, paras.52-54, 56, 59, 61, 90, 111, 168; [CAR-OTP-2101-6428](#), at 6449, 11:03:08; [CAR-OTP-2101-8599](#), at 8707-8710, 07:52:31-08:19:25; [CAR-OTP-2101-9117](#), at 9156-9158, 10:36:56-12:28:32; [CAR-OTP-2100-9923](#), at 9927, 12:53:51-13:46:52.

<sup>165</sup> See Annex C (Facebook Communications).

<sup>166</sup> [CAR-OTP-2102-2520](#), at 2689, 21:11:04-21:12:08; [CAR-OTP-2101-9451](#), at 9583-9584, 22:16:33-23:03:07; [CAR-OTP-2101-9735](#), at 9868-9869, 13:12:01-13:56:08; [CAR-OTP-2101-8921](#), at 8951, 07:34:11.

<sup>167</sup> [CAR-OTP-2102-5471](#), at 5633-5634, 18:45:54-19:15:24.

<sup>168</sup> **P-2673**: [CAR-OTP-2127-6435-R01](#), at 6450, 6455-6456, 6459, 6461, paras.95-96, 132, 153, 173.

<sup>169</sup> On the border area in general, see **P-2841**: [CAR-OTP-2127-4238-R01](#), at 4258-4263, paras.117, 139-140; **P-2673**: [CAR-OTP-2127-6435-R01](#), at 6445, para.64. On the border area of Garoua-Boulai, see **P-1847**: [CAR-OTP-2061-1534-R01](#), at 1551, para.110, [CAR-OTP-2122-8251-R01](#), at 8254-8256, 8263-8264, paras.24, 31, 40, 115-121. On the border area of Bertoua, see [CAR-OTP-2102-5143](#), at 5169, 10:55:19 – see commentary provided by **P-2673**: [CAR-OTP-2127-6435-R01](#), at 6455, paras.127-128; [CAR-OTP-2102-4062](#), at 0465, 13:57:29; **P-1074**: [CAR-OTP-2094-0228-R02](#), at 0242-0243, 0255, paras.81, 157. On the border area of Beloko, see [REDACTED]. On their relationship to NDALE, the ComZone of Beloko and Bouar see also **P-2673**: [CAR-OTP-2127-6435-R01](#), at 6455-6456, paras.132, 134; **P-0992**: [CAR-OTP-2122-6499-R01](#), at 6514, para.97.

BOUAR'.<sup>170</sup> Bernard MOKOM provided the archers with ammunition approximately 10 days later.<sup>171</sup> The [REDACTED] also show that in mid-October, **NGAISSONA** and Bernard MOKOM met the 'archers from BOUAR' again<sup>172</sup> to provide ammunition, Thurayas,<sup>173</sup> and medication,<sup>174</sup> in preparation of the attack on BOUAR on or around 26 October 2013.<sup>175</sup> They also reflect that **NGAISSONA** and Bernard MOKOM had ordered the attack prematurely, resulting in the lack of adequate reinforcements and ammunition.<sup>176</sup> For the attack, the Anti-Balaka (also referred to as 'FROCCA'<sup>177</sup>) had integrated the BOUAR archers.<sup>178</sup>

## ii. ZONGO

75. In respect of Anti-Balaka elements in the ZONGO area, **NGAISSONA** and Bernard MOKOM provided money to MOKOM, to buy, amongst others, ammunition.<sup>179</sup> [REDACTED] e-mail communications reflect that, in early October 2013, **NGAISSONA** had money, food, and equipment brought to ZONGO to be further dispatched to the field (which was apparently diverted to MOKOM and Claude NGAIKOSSET).<sup>180</sup>

<sup>170</sup> [CAR-OTP-2101-9735](#), at 9780, 20:50:52 - see commentary provided by **P-2841**, [CAR-OTP-2127-4238-R01](#), at 4250, paras.68-69; [CAR-OTP-2101-9735](#), at 9787, 14:50:32 - see commentary provided by **P-2841**, [CAR-OTP-2127-4238-R01](#), at 4252, para.77.

<sup>171</sup> [CAR-OTP-2101-9451](#), at 9503, 20:52:16-20:53:31.

<sup>172</sup> [CAR-OTP-2102-5143](#), at 5165, 15:40:54 - see commentary provided by **P-2673**: [CAR-OTP-2127-6435-R01](#), at 6459, paras.154-155; [CAR-OTP-2101-8524](#), at 8535, 06:38:16, 09:41:20-09:51:09; [CAR-OTP-2100-3030](#), at 3040, 06:35:12 - see commentary provided by **P-2673**: [CAR-OTP-2127-6435-R01](#), at 6460, paras.159-160; [CAR-OTP-2102-7681](#), at 7701, 14:48:00-14:55:23.

<sup>173</sup> As explicitly foreseen in the FROCCA Protocol Agreement: [CAR-OTP-2124-0852](#), at 0854-0855, article 2.

<sup>174</sup> [CAR-OTP-2101-9735](#), at 9817, 10:53:16-10:59:15 - see commentary provided by **P-2841**: [CAR-OTP-2127-4238-R01](#), at 4257, paras.109-110; On the Thurayas, see [CAR-OTP-2101-9735](#), at 9818-9819, 09:22:53-09:32:34; [CAR-OTP-2101-8599](#), at 8691, 10:58:46; [CAR-OTP-2102-2520](#), at 2643, 11:04:09-11:07:00 and at 2644, 14:29:53-14:33:30; **P-2673**: [CAR-OTP-2127-6435-R01](#), at 6451, 6453, 6461-6464, paras.100, 118-119, 175, 180-190.

<sup>175</sup> [CAR-OTP-2102-3203](#), at 3362, 25/10/2013 09:52:36-09:56:22; [CAR-OTP-2101-9277](#), at 9320-9322, 07:20:33-18:57:13; [CAR-OTP-2066-3003](#), at 3063-3066, 07:54:43-10:12:44, and at 3071, 09:03:39-10:16:04. See also **P-2673**: [CAR-OTP-2127-6435-R01](#), at 6460-6461, paras.168-169.

<sup>176</sup> [CAR-OTP-2102-8338](#), at 8345-8347, 10:17:55-14:42:05; [CAR-OTP-2101-8599](#), at 8719-8721, 12:59:49-13:30:22 and at 8703-8705, 08:16:19-08:47:43; [CAR-OTP-2101-9735](#), at 9829-9831, 19:05:20-19:31:53 - see commentary provided by **P-2841**: [CAR-OTP-2127-4238-R01](#), at 4262-4263, paras.137-140; [CAR-OTP-2102-3014](#), at 3081, 22:17:30; [CAR-OTP-2100-9923](#), at 9927, 12:53:51-13:41:48.

<sup>177</sup> [CAR-OTP-2101-6897](#), at 6900-6901, 12:57:49-13:24:20 - see commentary provided by **P-2673**: [CAR-OTP-2127-6435-R01](#), at 6450-6451, paras.98-99, 103.

<sup>178</sup> [CAR-OTP-2101-9735](#), at 9829-9831, 19:05:20-19:31:53 - see commentary provided by **P-2841**: [CAR-OTP-2127-4238-R01](#), at 4262-4263, paras.137-140.

<sup>179</sup> **P-1847**: [CAR-OTP-2122-8251-R01](#), at 8264, para.121.

<sup>180</sup> [CAR-OTP-2124-0890](#); [CAR-OTP-2101-9735](#), at 9805, 12:56:16-13:00:25 and at 9829, 19:07:55 - see commentary of **P-2841**: [CAR-OTP-2127-4238-R01](#), at 4253-4254, 4265, paras.87-89, 153.

### iii. GOBERE

76. **NGAISSONA** and Bernard MOKOM frequently liaised with, and/or visited Anti-Balaka elements located in the area of BOSSANGOA, including BOZIZE's hometown BENZAMBE, as well as GOBERE. These elements included Achilles GODONAM, Danboy DEDANE ("DEDANE"), Richard BEJOUANE ("BEJOUANE"), and Côme Hyppolite AZOUNOU ("AZOUNOU"),<sup>181</sup> to whom they provided money, food, weapons, and/or ammunition.<sup>182</sup> AZOUNOU would later liaise with MOKOM in preparation for the 5 December 2013 BANGUI Attack,<sup>183</sup> becoming the Anti-Balaka's Deputy Operations Coordinator to MOKOM in mid-2014.<sup>184</sup>

### iv. BANGUI

77. At the same time, **NGAISSONA** was in contact with individuals in BANGUI, including Sebastien WENEZOU ("WENEZOU"), Alfred Legrand NGAYA ("NGAYA"), FACA *capitaine* Charles NGREMANGOU ("NGREMANGOU") and *Lieutenant* Yvon KONATE ("KONATE").<sup>185</sup>

78. From CAMEROON, **NGAISSONA** continued to mobilise the youth in BANGUI.<sup>186</sup> He also financed them, including for the acquisition of weapons and ammunition, through intermediaries such as [REDACTED].<sup>187</sup>

<sup>181</sup> **P-1847**: [CAR-OTP-2122-8251-R01](#), at 8254-8256, 8259, 8265, paras.25, 28, 45, 70, 125; **P-2673**: [CAR-OTP-2127-6435-R01](#), at 6455-6456, para.132.

<sup>182</sup> **P-0458**: [CAR-OTP-2118-2319-R01](#), at 2336-2337, l.578-611, [CAR-OTP-2118-2432-R01](#), at 2451-2452, l.635-662, [CAR-OTP-2118-2454-R01](#), at 2465, l.362-370, [CAR-OTP-2118-2432-R01](#), at 2438, l.197-211, [CAR-OTP-2118-5048-R01](#), at 5058, l.332-354, [CAR-OTP-2118-5346-R01](#), at 5360, l.445-476, [CAR-OTP-2118-5113-R01](#), at 5116-5117, l.77-119; **P-1847**: [CAR-OTP-2061-1534-R01](#), at 1550, 1552-1553, 1555, 1558, paras.104-105, 115-120, 132-135, 150; [CAR-OTP-2122-8251-R01](#), at 8256, para.45; **P-2556**: [CAR-OTP-2112-1300-R01](#), at 1313, paras.99-102.

<sup>183</sup> Regarding the role of AZOUNOU and DEDANE in relation to MOKOM, *see below*, para.83.

<sup>184</sup> **P-2232**: [CAR-OTP-2100-2569-R01](#), at 2581, para.63; **P-0966**: [CAR-OTP-2031-0241-R01](#), at 0257, para.90; [CAR-OTP-2092-1018](#), at 1018.

<sup>185</sup> **P-0808**: [CAR-OTP-2093-0010-R01](#), at 0015-0016, 0020-0021, paras.30, 58-61; **P-0884**: [CAR-OTP-2072-1616-R02](#), at 1645, 1647, 1005-1022, 1087-1093; **P-0992**: [CAR-OTP-2110-0048-R01](#), at 0055-0056, para.38, [CAR-OTP-2122-6499-R01](#), at 6516, paras.104, 108; **P-0458**: [CAR-OTP-2118-2341-R01](#), at 2362-2363, l.724-731. For the telephone contacts between **NGAISSONA** and WENEZOU and NGREMANGOU, *see below*, para.413.

<sup>186</sup> **P-0808**: [CAR-OTP-2093-0010-R01](#), at 0015-0016, 0020-0021, paras.30, 58; [CAR-OTP-2101-8599](#), at 8641, 10:51:47-10:59:50; [CAR-OTP-2101-9735](#), at 9773-9774, 18:59:28-19:08:12. *See also* **P-2841**: [CAR-OTP-2127-4238-R01](#), at 4259, paras.119-120.

<sup>187</sup> **P-0992**: [CAR-OTP-2110-0048-R01](#), at 0056-0057, paras.39, 46, [CAR-OTP-2122-6499-R01](#), at 6517, para.112; **P-0954**: [CAR-OTP-2048-0171-R02](#), at 0177, 0179, paras.37, 47; **P-0884**: [CAR-OTP-2072-1715-R01](#), at 1727-1729, l.399-504; [CAR-OTP-2072-1739-R01](#), at 1748-1751, l.317-1.420; **P-2625**: [CAR-OTP-2123-0377-R01](#), at 0401, para.143; **P-0458**: [CAR-OTP-2118-2341-R01](#), at 2356-2359, l.508-611, [CAR-OTP-2118-2454-](#)

79. [REDACTED] e-mail communications also reflect this: they show that between 5 and 12 October 2013, **NGAISSONA** liaised with elements in BANGUI through [REDACTED], to assess their needs (*'besoins'*) in terms of weapons, ammunitions, and other materials. In response, [REDACTED] provided **NGAISSONA** with a detailed inventory of supplies needed, their estimated cost and the names and phone numbers of the local focal points.<sup>188</sup> After receiving the e-mail, **NGAISSONA** forwards it for follow-up:

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[R01](#), at 2471, l.556-571; **P-2673**: [CAR-OTP-2127-6435-R01](#), at 6451, paras.100-102, *in particular* para.102; **P-2328**: [CAR-OTP-2099-0165-R01](#), at 0192, para.140.

<sup>188</sup> [CAR-OTP-2101-9735](#), at 9811-9812, 10:12:33-10:40:21. On the meaning of '*matos*' see **P-2841**: [CAR-OTP-2127-4238-R01](#), at 4245, 4256, paras.41, 104; [CAR-OTP-2124-0890](#); [CAR-OTP-2124-0891](#); [CAR-OTP-2124-0892](#); [CAR-OTP-2124-0894](#); [CAR-OTP-2124-0895](#); [CAR-OTP-2124-0896](#); On the list of supplies needed, see [CAR-OTP-2124-0899](#); [CAR-OTP-2124-0900](#); [CAR-OTP-2124-0901](#); [CAR-OTP-2124-0903](#); [CAR-OTP-2124-0985](#).

**Re: BESOINS ZONE SUD**

**From:** [REDACTED]  
**To:** Patrice Edouard Ngaissona <npatriceedouard@yahoo.fr>  
**Date:** Thu, 17 Oct 2013 17:54:14 +0000

Bonjour  
 Message reçu et le compte rendu sera fait immédiatement.  
 bien de chose à vous

**De :** Patrice Edouard Ngaissona <npatriceedouard@yahoo.fr>  
**A :** [REDACTED]  
**Envoyé le :** Mardi 15 octobre 2013 17h00  
**Objet :** Tr: BESOINS ZONE SUD

----- Mail transféré -----

**De :** [REDACTED]  
**A :** patrice ngaissona <npatriceedouard@yahoo.fr>  
**Envoyé le :** Samedi 12 octobre 2013 23h21  
**Objet :** BESOINS ZONE SUD

**Bonsoir Président,**  
**Juste vous balancer les besoins du sud .(FATIMA-BIMBO -**  
**MOUNGOUMBA)**

**Le point focal c'est Mr [REDACTED]**  
**Concernant les besoins,ils ont exprimé plus ou moins les mêmes**  
**besoins:**

|                                                    |          |
|----------------------------------------------------|----------|
| -Téléphones oranges pour la communication 40x9000= | 360 000  |
| -produits pharmaceutiques=                         | 500 000  |
| -cartes de crédit orange 25000x40                  | 1000000  |
| -Ration des éléments=                              | 2500000  |
| -Imprévu=                                          | 1500 000 |
| -intéressement des éléments forfait=               | 4 000000 |

**TOTAL= 9 860 000 FCFA**

**BESOINS EN MATERIELS**

**-chargeurs AK**  
**-RPG7 + ROQUETTES (40)**

80. Likewise, when updated on the military needs of particular elements, namely[REDACTED], **NGAISSONA** immediately asks for their (ORANGE) contact

details:

## Re: informations

From: Patrice Edouard Ngaissona <npatriceedouard@yahoo.fr>  
To: [REDACTED]  
Date: Sun, 06 Oct 2013 16:23:47 +0000

Mon seul souci je m'appelle pas sur le [REDACTED] s'ils peuvent trouver rien que [REDACTED] merci

De : [REDACTED]  
A: Patrice Edouard Ngaissona <npatriceedouard@yahoo.fr>  
Envoyé le : Dimanche 6 octobre 2013 17h15  
Objet : Re: informations

**Bonjour Président,**  
**Juste vous balancer les numeros des lieutenants [REDACTED] ET**  
**[REDACTED] :**  
**[REDACTED] : 00236 [REDACTED] /00236 [REDACTED]**  
**[REDACTED] : 00236 [REDACTED] /00236 [REDACTED]**

De : Patrice Edouard Ngaissona <npatriceedouard@yahoo.fr>  
A: [REDACTED]  
Envoyé le : Dimanche 6 octobre 2013 17h58  
Objet : Re: informations

Bonjour  
Si tu peu m'envoyer leur numéros par sms pour une urgence ou sur adresse mail  
merci bien de choses à toi

De : [REDACTED]  
A: patrice ngaissona <npatriceedouard@yahoo.fr>  
Envoyé le : Samedi 5 octobre 2013 22h20  
Objet : informations

**Bonsoir Président,**  
**Juste vous informer que l'UNIFFAC nous a informé concernant les billets d'avion,elle prend en charge le billet d'avion d'une seule personne et l'autre délégué est à la charge de son Association Nationale conformément à la correspondance qu'ils ont envoyé.C'est pourquoi ils ont seulement envoyé un seul billet pour [REDACTED]. j'en parlerai avec le 1er vice si y a la possibilité de prendre votre billet à Bangui, à moins que vous me proposez autre solution.**  
**Concernant la situation du pays,notre cellule d'information a été informé de la dotation en moyen financier et matériel aux éléments qui sont de l'autre coté du fleuve pour une coordination avec ceux de Bangui et la ligne Boali,Bogangolo,Bozoum.Mais malheureusement le responsable qui gère les éléments de Bangui et PK12 lieutenant [REDACTED] et l'autre qui coordonne la ligne Boali,Bongangolo Bozoum le Lieutenant [REDACTED] n'ont reçu aucun moyen comme d'habitude.j'ai été contacté pour prendre contact avec vous pour plus de détail car cette situation crée des mécontentements .Je peux vous mettre en contact directe avec ces deux officiers si vous le désirer. Je reste à votre écoute.**



81. Days before the attack on the 5 December 2013, weapons were distributed on his behalf to the Anti-Balaka chiefs outside BANGUI.<sup>189</sup> **NGAISSONA** also placed orders for ammunition with a local provider, and was involved in the supply of ammunition from the DRC to the Anti-Balaka in CAR.<sup>190</sup>

b) *ZONGO-group*

82. MOKOM fled to ZONGO after the 24 March 2013 *Coup*<sup>191</sup> with members of the PG, FACA, and others loyal to BOZIZE.<sup>192</sup> These included some of BOZIZE's sons, Patrick OROFEI and Aimé Abel DENAMGANAI, [REDACTED], who later became key members of the Anti-Balaka National Coordination ("National Coordination").<sup>193</sup>

<sup>189</sup> **P-0458:** [CAR-OTP-2118-2341-R01](#), at 2356-2359, 1.508-611, [CAR-OTP-2118-2454-R01](#), at 2471, 1.556-571.

<sup>190</sup> **P-2328:** [CAR-OTP-2099-0165-R01](#), at 1087-1088, paras.114, 116.

<sup>191</sup> **P-1521:** [CAR-OTP-2046-0603-R01](#), at 0607, para.26; **P-0889:** [CAR-OTP-2027-2290-R01](#), at 2294-2295, paras.27-29; **P-0446:** [CAR-OTP-2059-1626-R01](#), at 1640-1642, 1.488-618; **P-2232:** [CAR-OTP-2090-0561-R03](#), at 0567, 0569, 0576-0577, paras.44, 45, 58, 102; **P-1847:** [CAR-OTP-2061-1534-R01](#), at 1551, para.111.

<sup>192</sup> **P-2232:** [CAR-OTP-2090-0561-R03](#), at 0566, paras.36-37; **P-1521:** [CAR-OTP-2046-0603-R01](#), at 0607, para.25; **P-1339:** [CAR-OTP-2041-0741-R01](#), at 0745, paras.29-30; **P-0888:** [CAR-OTP-2031-0217-R01](#), at 0220-0222, paras.23, 31; **P-0889:** [CAR-OTP-2027-2290-R01](#), at 2294-2295, paras.27-29; **P-0876:** [CAR-OTP-2046-0267-R01](#), at 0281, 1.503-521; **P-0446:** [CAR-OTP-2059-1626-R01](#), at 1638-1640, 1.445-510, 1.741-788; **P-2328:** [CAR-OTP-2099-0165-R01](#), at 0179, para.73.

<sup>193</sup> See e.g. [CAR-OTP-2025-0380](#), at 0384-0385; [CAR-OTP-2006-1210](#), at 1213.

83. From ZONGO, MOKOM was in contact with both **NGAISSONA** and Bernard MOKOM, who were together in CAMEROON.<sup>194</sup>

84. MOKOM's role in the plan to claim and/or reclaim power in CAR — was, *inter alia*, to organise and coordinate members of the FACA and PG who had stayed in CAR, or fled with him to ZONGO after the 24 March 2013 *Coup*, such as **YEKATOM**.<sup>195</sup>

85. MOKOM became the *de facto* Anti-Balaka Operations Coordinator.<sup>196</sup> He secured money, weapons, and ammunition,<sup>197</sup> organised the deployment of Anti-Balaka elements,<sup>198</sup> and instructed them on when to attack specific towns and villages.<sup>199</sup> MOKOM was in frequent contact with ComZones in BANGUI and the provinces who kept him, and thus the Anti-Balaka leadership, informed of their actions, situation, and operations on the ground.<sup>200</sup>

<sup>194</sup> **P-1847**: [CAR-OTP-2061-1534-R01](#), at 1549, paras.101-102; **P-0801**: [CAR-OTP-2074-2643-R02](#), at 2647-2649, l.124-189; **P-0876**: [CAR-OTP-2046-0249-R01](#), at 0259-0261, l.375-1.458, [CAR-OTP-2046-0407-R01](#), at 0409-0415, l.71-271; **P-2232**: [CAR-OTP-2090-0561-R03](#), at 0572, 0577, paras.75, 99, [CAR-OTP-2100-2569-R01](#), at 2573-2574, 2578-2580, paras.14,15, 19-20, 48, 55; [CAR-OTP-2066-3003](#), at 3052, 3056; [CAR-OTP-2066-2142](#), at 2158-2159; **P-2841**: [CAR-OTP-2127-4238-R01](#), at 4260, para.123. CDR show that on 30 November 2013, 2-3 December 2013, and 1, 3 and 6 January 2014, **NGAISSONA** ([REDACTED]) communicated with MOKOM ([REDACTED]): [CAR-OTP-2054-1480](#); [CAR-OTP-2054-1481](#); [CAR-OTP-2019-2839](#). For the attributions of the relevant telephone numbers, see Annex D.

<sup>195</sup> [CAR-OTP-2079-0994](#), at 0995-0997.

<sup>196</sup> **P-2232**: [CAR-OTP-2090-0561-R03](#), at 0568-0569, 0574, 0577-0579, paras.48, 50, 53, 54, 86, 99, 103-104, 134-135, [CAR-OTP-2100-2569-R01](#), at 2581, para.62; **P-0627**: [CAR-OTP-2102-1506-R02](#), at 1510-1512, l.112-127, 165-194; **P-2012**: [CAR-OTP-2091-0127-R01](#), at 0141, para.67; **P-0966**: [CAR-OTP-2031-0241-R01](#), at 0246-0248, paras.30-39; **P-1994**: [CAR-OTP-2080-0852-R02](#), at 0865, 0867, paras.95, 96, 98, 120; **P-0889**: [CAR-OTP-2027-2290-R01](#), at 2295-2296, paras.30-34; **P-1719**: [CAR-OTP-2062-0039-R02](#), at 0045-0046, paras.37-45; **P-0884**: [CAR-OTP-2072-1479-R01](#), at 1486-1487, l.225-275, [CAR-OTP-2072-1541-R01](#), at 1559-1562, l.615-705, [CAR-OTP-2080-1678-R01](#), at 1685-1687, l.228-299; **P-0646**: [CAR-OTP-2029-0399-R01](#), at 0424, para.166; **P-1521**: [CAR-OTP-2046-0603-R01](#), at 0610, para.43; **P-2027**: [CAR-OTP-2078-0059-R02](#), at 0074-0077, 0085, paras.89-93, 102-105, 158; [CAR-OTP-2066-3003](#), at 3071; [CAR-OTP-2066-3003](#), at 3014-3018; [CAR-OTP-2066-1601](#), at 1778.

<sup>197</sup> **P-0889**: [CAR-OTP-2027-2290-R01](#), at 2296, para.35; **P-0876**: [CAR-OTP-2046-0267-R01](#), at 0276-0277, l.336-356, [CAR-OTP-2046-0295-R01](#), at 0301, l.185-201; **P-0884**: [CAR-OTP-2072-1715-R01](#), at 1726-1730, l.368-531, [CAR-OTP-2080-1678-R01](#), at 1680-1686, l.46-172, 228-278; **P-2232**: [CAR-OTP-2090-0561-R03](#), at 0570-0573, 0582, paras.62-64, 66, 68, 70-73, 76, 160-163, [CAR-OTP-2100-2569-R01](#), at 2572-2573, 2577, paras.13-18, 42; **P-1339**: [CAR-OTP-2041-0741-R01](#), at 0747-0748, paras.41-45; **P-1847**: [CAR-OTP-2061-1534-R01](#), at 1549, 1558, paras.102, 150, 152; **P-1858**: [CAR-OTP-2061-1534-R01](#), at 1549, 1564, 1568, paras.102, 194, 215.

<sup>198</sup> **P-2328**: [CAR-OTP-2099-0165-R01](#), at 0178, paras.65-66; **P-0627**: [CAR-OTP-2102-1506-R02](#), at 1516-1517, l.336-373.

<sup>199</sup> See e.g. **P-0966**: [CAR-OTP-2031-0241-R01](#), at 0246-0247, paras.31-34; [CAR-OTP-2066-3003](#), at 3064, 3078-3083; **P-2232**: [CAR-OTP-2090-0561-R03](#), at 0575, para.89, [CAR-OTP-2100-2569-R01](#), at 2579, paras.48, 51-54.

<sup>200</sup> See e.g. [REDACTED].

86. After the 24 March 2013 *Coup*, **YEKATOM** fled to ZONGO.<sup>201</sup> In ZONGO, he stayed with other FACA in a house rented by MOKOM, who also paid for food.<sup>202</sup> MOKOM and **YEKATOM** knew each other well, as they were both *ex-libérateurs*.<sup>203</sup> They met regularly in ZONGO, with **YEKATOM**'s would-be deputies *caporal-chef* Freddy OUANDJIO ("OUANDJIO" aka "Coeur de Lion") and *caporal* Habib BEINA ("Habib BEINA").<sup>204</sup> In an interview, **YEKATOM** confirmed that "*c'est de là-bas qu'on avait eu l'idée de démarrer notre mouvement*".<sup>205</sup>

87. From ZONGO, MOKOM kept contact with the GOBERE leadership, including prospective key figures in the Anti-Balaka National Coordination,<sup>206</sup> like Guy MAZIMBELE ("MAZIMBELE"), Rodrigue NGAIBONA (aka "ANDJILO"), Sylvestre YAGOUZOU ("YAGOUZOU"), Thierry LEBENE ("LEBENE" aka "12 Puissances"),

<sup>201</sup> **P-1339**: [CAR-OTP-2041-0741-R01](#), at 0745-0746, paras.29-36; **P-2232**: [CAR-OTP-2100-2569-R01](#), at 2577, para.41; [CAR-OTP-2118-0415](#) from [00:53:50] to [01:00:07] and its transcript and translation, [CAR-OTP-2127-4357](#) and [CAR-OTP-2127-4410](#); [CAR-OTP-2065-2404](#), from [00:00:00] to [00:03:48] and its transcript and translation [CAR-OTP-2127-3738](#) and [CAR-OTP-2127-3644](#), at 3648, 1.70-72; [CAR-OTP-2065-0716](#), from [00:00:00] to [00:02:00] and its transcript and translation [CAR-OTP-2107-6924](#) and [CAR-OTP-2122-2292](#), at 2294, 1.1-36.

<sup>202</sup> [REDACTED].

<sup>203</sup> **P-2232**: [CAR-OTP-2100-2569-R01](#), at 2577, para.43; **P-2027**: [CAR-OTP-2078-0059-R02](#), at 0078, para.111; **P-2269**: [CAR-OTP-2111-0336-R01](#), at 0340, para.27.

<sup>204</sup> **P-2232**: [CAR-OTP-2100-2569-R01](#), at 2577, para.43; **P-1339**: [CAR-OTP-2041-0741-R01](#), at 0745-0746, paras.29-30.

<sup>205</sup> [CAR-OTP-2065-0716](#), from [00:01:02] to [00:01:28] and its transcript and translation [CAR-OTP-2107-6924](#), at 6925, 1.13-29, [CAR-OTP-2107-7058](#), at 7060, 1.13-29.

<sup>206</sup> CDR show that while in Zongo, from 19 December 2013 to 5 February 2014, MOKOM ([REDACTED]) communicated with ANDJILO ([REDACTED]): [CAR-OTP-2054-1479](#); [CAR-OTP-2054-1480](#); [CAR-OTP-2054-1481](#). CDR show that while in Zongo, from 17 January to 5 February 2014, MOKOM ([REDACTED]) communicated with AZOUNOU ([REDACTED]): [CAR-OTP-2019-1364](#); [CAR-OTP-2019-2839](#); [CAR-OTP-2054-1481](#); [CAR-OTP-2112-1518](#). CDR show that while in Zongo, from 10 September 2013 to 5 February 2014, MOKOM ([REDACTED]) communicated with BEJOUANE ([REDACTED]): [CAR-OTP-2019-1364](#); [CAR-OTP-2019-2839](#); [CAR-OTP-2054-1479](#); [CAR-OTP-2054-1480](#); [CAR-OTP-2054-1481](#). CDR show that while in Zongo, from 6 November 2013 to 5 February 2014, MOKOM ([REDACTED]) communicated with KONATE ([REDACTED]): [CAR-OTP-2008-0482](#); [CAR-OTP-2008-0483](#); [CAR-OTP-2019-1364](#); [CAR-OTP-2019-2839](#); [CAR-OTP-2054-1480](#); [CAR-OTP-2054-1481](#). CDR show that while in Zongo, from 7 November 2013 to 5 February 2014, MOKOM ([REDACTED]) communicated with LEBENE ([REDACTED]): [CAR-OTP-2054-1480](#); [CAR-OTP-2054-1481](#). CDR show that while in Zongo, from 18 October 2013 to 5 February 2014, MOKOM ([REDACTED]) communicated with YAGOUZOU ([REDACTED]): [CAR-OTP-2019-1364](#); [CAR-OTP-2019-2839](#); [CAR-OTP-2054-1480](#); [CAR-OTP-2054-1481](#); [CAR-OTP-2068-0034](#). CDR show MOKOM ([REDACTED]) communicated almost daily with DEDANE ([REDACTED]) from 7 August to 5 December 2013: [CAR-OTP-2019-2839](#); [CAR-OTP-2019-1364](#); [CAR-OTP-2054-1479](#); [CAR-OTP-2054-1480](#). CDR show MOKOM ([REDACTED]) communicated with KEMA ([REDACTED]) from 6 September 2013 to 5 February 2014: [CAR-OTP-2054-1479](#); [CAR-OTP-2054-1480](#); [CAR-OTP-2054-1481](#). For the attributions of the relevant telephone numbers, see Annex D. On the contacts between MOKOM and the GOBERE leadership, see also above, in particular **P-0889**: [CAR-OTP-2027-2290-R01](#), at 2295-2296, paras.30-34; **P-1521**: [CAR-OTP-2046-0603-R01](#), at 0610, para.43; **P-2027**: [CAR-OTP-2078-0059-R02](#), at 0076, para. 100; **P-0458**: [CAR-OTP-2118-5081-R01](#), at 5089, 1.245-254.

KONATE, DEDANE, AZOUNOU, *gendarme* Dieudonné HOURONTI (“HOURONTI”), *Caporal* Florent KEMA (“KEMA”), Richard BEJOUANE (“BEJOUANE”), and others (“GOBERE Leadership”).<sup>207</sup>

c) *KALANGOI-group*

88. After having spent some time in ZONGO, **YEKATOM** moved to KALANGOI, DRC.<sup>208</sup> By June 2013, **YEKATOM** had gathered and was training and developing thousands of elements in KALANGOI. From there, **YEKATOM** secured weapons and ammunition for his Group, including from MOKOM in ZONGO<sup>209</sup> on which he trained them.

89. **YEKATOM** organised his elements in a military-like hierarchy, comprised of subgroups headed by subordinate commanders. They numbered approximately 3,000, including some 200 FACA.<sup>210</sup> Their stated purpose according to **YEKATOM**’s express instructions was to kill “Muslims *and* Selekas.”<sup>211</sup>

<sup>207</sup> MOKPEM, MAZIMBELET, ANDJILO, YAGOUZOU, LEBENE, OUAPOUTOU, KONATE, BEOROFEI, AZOUNOU, and HOURONTI, were all key members of the National Coordination of the Anti-Balaka, see [CAR-OTP-2035-0061](#), at 0061-0063; [CAR-OTP-2101-4059](#), at 4060-4061; [CAR-OTP-2084-0049](#), at 0053-0054; [CAR-OTP-2039-0019](#), at 0019. See also **P-1521**: [CAR-OTP-2046-0603-R01](#), at 0608-0609, 0618-0619, 0025, paras.34, 91-93, 128; **P-0808**: [CAR-OTP-2025-0324-R03](#), at 0343-0344, para.123; [CAR-OTP-2003-1654](#), at 1764; [CAR-OTP-2030-0239](#), at 0240; [CAR-OTP-2020-0228](#), at 0231; [CAR-OTP-2001-5118](#), at 5120; [CAR-OTP-2005-0129](#), from [00:28:16] to [00:31:14]; **P-1815**: [CAR-OTP-2058-0581-R01](#), at 0596-0597, paras.88-89. On the role of AZOUNOU, who was the Deputy Chief of Staff of the Anti-Balaka, see **P-0966**: [CAR-OTP-2031-0241-R01](#), at 0247, 0257, paras.33,90; [CAR-OTP-2092-1018](#), at 1018; On the role of DEDANE in GOBERE, see **P-2658**: [CAR-OTP-2126-0012-R01](#), at 0020, paras.48-49; **P-2602**: [CAR-OTP-2118-9714-R01](#), at 9727-9729, 1.420-506. On the roles of KEMA, MANDAGO and [REDACTED], see *further below*, para.431. On KONATE coordinating with the ZONGO-group / MOKOM, see [CAR-OTP-2103-4354](#) at 4356, 19:36:03; [CAR-OTP-2103-2204](#) at 2206, 22:08:58; **P-0458**: [CAR-OTP-2118-2454-R01](#), at 2466-2467, 1.388-416; [CAR-OTP-2118-2608-R01](#), at 2625-2626, 1.562-583.

<sup>208</sup> **P-1339**: [CAR-OTP-2041-0741-R01](#), at 0745-0746, paras.29-36; **P-2232**: [CAR-OTP-2100-2569-R01](#), at 2577, para.41; [CAR-OTP-2118-0415](#) from [00:53:50] to [01:00:07], and its transcript and translation, [CAR-OTP-2127-4357](#) and [CAR-OTP-2127-4410](#), [CAR-OTP-2065-2404](#) from [00:00:00] to [00:02:00] and its transcript and translation, [CAR-OTP-2127-3738](#) and [CAR-OTP-2127-3644](#), at 3646, 1.10-31; [CAR-OTP-2065-0716](#), from [00:01:02 to 00:01:28] and its transcript and translation [CAR-OTP-2107-6924](#), at 6925, 1.13-29, and [CAR-OTP-2122-2292](#).

<sup>209</sup> **P-1339**: [CAR-OTP-2041-0741-R01](#), at 0747-0748, paras.41-49.

<sup>210</sup> **P-1339**: [CAR-OTP-2041-0741-R01](#), at 0745-0746, 0750, paras.32-39, 60; **P-1521**: [CAR-OTP-2046-0603-R01](#), at 0610, para.41; **P-0954**: [CAR-OTP-2048-0171-R02](#), at 0185, para.80; **P-2084**: [CAR-OTP-2094-0968-R02](#), at 0983, para.77. See also [CAR-OTP-2055-2610](#), from [00:07:15] to [00:08:12] and its transcript and translation [CAR-OTP-2107-6906](#), at 6913-6914, 1.193-233, and [CAR-OTP-2122-2271](#), at 2279-2280, 1.193-236.

<sup>211</sup> [REDACTED].

90. **YEKATOM** was in contact with MOKOM and agreed to participate in the 5 December 2013 BANGUI Attack<sup>212</sup> in preparation for which **YEKATOM** contacted his former military classmates to join him.<sup>213</sup> He remained in regular telephone contact with MOKOM in preparation,<sup>214</sup> deploying his elements to BANGUI.<sup>215</sup> By the time of the 5 December 2013 BANGUI Attack, **YEKATOM** claimed to have over 1,500 elements there with him.<sup>216</sup>

d) *GOBERE-group*

91. From June 2013 onwards, members of the FACA and PG loyal to BOZIZE gathered pre-existing self-defence groups and new recruits in GOBERE and BENZAMBE (near BOSSANGOA), where they prepared them for combat. They administered traditional rituals (“vaccinations”) and/or fetishes (“gris-gris”) to protect them in battle, and FACA members assumed and/or shared command over these groups, provided rudimentary training, and organised them into a military-like structure.<sup>217</sup> They would become known as the Anti-Balaka.

<sup>212</sup> [REDACTED].

<sup>213</sup> [REDACTED].

<sup>214</sup> [CAR-OTP-2046-0714](#). CDR show that while in Zongo, on 25-30 November and 1, 4 December 2013, MOKOM ([REDACTED]) communicated with **YEKATOM** ([REDACTED]): [CAR-OTP-2019-2839](#); [CAR-OTP-2019-1364](#); [CAR-OTP-2054-1480](#). For the attributions of the relevant telephone numbers, see Annex D. [REDACTED].

<sup>215</sup> **P-0974**: [CAR-OTP-2058-0165-R01](#), at 0171, para.36; **P-1339**: [CAR-OTP-2041-0741-R01](#), at 0750, paras.66-67; *see below*, para.0394.

<sup>216</sup> [CAR-OTP-2065-0396](#), from [00:01:15] to [00:01:40] and its transcript [CAR-OTP-2107-6918](#), at 6919, l.27-34.

<sup>217</sup> **P-2556**: [CAR-OTP-2112-1300-R01](#), at 1304-1306, paras.28-40; **P-2251**: [CAR-OTP-2093-0045-R01](#), at 0050-0051, 0077, paras.34-39, 208-213; **P-0889**: [CAR-OTP-2027-2290-R01](#), at 2295-2297, paras.30-34, 38; **P-0966**: [CAR-OTP-2031-0241-R01](#), at 0246, paras.28-30; **P-2232**: [CAR-OTP-2090-0561-R03](#), at 0570, paras.59, 60; **P-0884**: [CAR-OTP-2072-1849-R01](#), at 1850-1864, 1866-1869, l.20-515, 582-667; **P-1074**: [CAR-OTP-2094-0228-R02](#), at 0237-0239, paras.52, 62; **P-2658**: [CAR-OTP-2126-0012-R01](#), at 0024-0025, paras.78-79, 82, 92-97; [CAR-OTP-2041-0802](#); [CAR-OTP-2041-0783](#); [CAR-OTP-2084-1331](#), from [00:02:06] to [00:03:40] and its transcript [CAR-OTP-2107-1586](#), at 1587, l.26-41; [CAR-OTP-2076-0825](#), from [00:03:46] to [00:04:52] and its transcript [CAR-OTP-2122-7403](#), at 7405, l.52-65; [CAR-OTP-2081-1769](#), from [00:02:55] to [00:04:15] and its transcript and translation [CAR-OTP-2107-6939](#) and [CAR-OTP-2122-2313](#), at 2316-2319, l.46-135; [CAR-OTP-2084-1263](#), from [00:00:00] to [00:05:13] and its transcript [CAR-OTP-2107-1565](#), at 1566-1569, l.1-113; [CAR-OTP-2065-2895](#), and its transcript [CAR-OTP-2107-1545](#); [CAR-OTP-2025-0396](#), at 0401; **P-2841**: [CAR-OTP-2127-4238-R01](#), at 4249-4250, 4253, 4273, paras.60, 68, 84, 194; **P-1521**: [CAR-OTP-2046-0603-R01](#), at 0608-0610, para.30-34, 39-44; **P-2602**: [CAR-OTP-2118-9598-R01](#), at 9607, l.287-308; **P-0975**: [CAR-OTP-2033-7885-R02](#), at 7888-7889, paras.25-30; **P-0458**: [CAR-OTP-2118-2319-R01](#), at 2331-2332, l.392-414, [CAR-OTP-2118-2432-R01](#), at 2435, l.101-104; [CAR-OTP-2076-1082](#), from [00:08:00] to [00:09:00], and its transcript [CAR-OTP-2087-8944](#), at 8948, l.121-140.

92. In addition to the GOBERE Leadership,<sup>218</sup> the group was joined by KONATE and his elements (known as SIRIRI<sup>219</sup>), who played a major role in the 5 December 2013 BANGUI Attack.<sup>220</sup>

93. Over the next months, the GOBERE Leadership incorporated an increasing number of FACA and PG members,<sup>221</sup> and new recruits from CAR and CAMEROON.<sup>222</sup> Their growing numbers, strength, and capability was shown in their first series of major attacks around BOSSANGO in September 2013.<sup>223</sup>

94. As noted, MOKOM was in contact with the GOBERE Leadership, and coordinated with them from ZONGO, while NGAISSONA supported the GOBERE group including by providing money and ammunition.<sup>224</sup>

95. Once established, the GOBERE group was deployed to attack different locations around BOSSANGO to gain territory, culminating in the coordinated offensives at BOSSANGO and BANGUI on 5 December 2013,<sup>225</sup> for which FROCCA claimed responsibility.<sup>226</sup>

<sup>218</sup> **P-0458:** [CAR-OTP-2118-2586-R01](#), at 2589, l.92-96, at 2593, l.227-232, at 2595, l.275-288, [CAR-OTP-2118-5061-R01](#), at 5076, l.488-523, at 5078, l.556-562, [CAR-OTP-2118-5097-R01](#), at 5098-5103, l.8-179, at 5110, l.410-414; **P-2027:** [CAR-OTP-2078-0059-R02](#), at 0076, para.100; **P-1521:** [CAR-OTP-2046-0603-R01](#), at 0608-0609, 0618-0619, 0625, paras.34-35, 91-93, 128, [CAR-OTP-2046-0628](#); **P-2602:** [CAR-OTP-2118-9579-R01](#), at 9595-9597, l.522-593.

<sup>219</sup> See Annex B (List of Individuals and Organisations supporting BOZIZE).

<sup>220</sup> **P-1847:** [CAR-OTP-2061-1534-R01](#), at 1561, para.174.

<sup>221</sup> [CAR-OTP-0080-0802](#), at 0805; **P-0966:** [CAR-OTP-2031-0241-R01](#), at 0246, para.28; [CAR-OTP-2001-0409](#), at 0410, para.5; [CAR-OTP-2001-0835](#), at 0845, para.28; [CAR-OTP-2001-2564](#), at 2578; **P-2012:** [CAR-OTP-2091-0127-R01](#), at 0134, paras.34, 45; **P-2328:** [CAR-OTP-2099-0165-R01](#), at 0175, 0180, paras.55, 78; **P-1847:** [CAR-OTP-2061-1534-R01](#), at 1570, para.227; [CAR-OTP-2001-4146](#), at 4147; [CAR-OTP-2001-0984](#), at 0984; [CAR-OTP-2076-1082](#), from [00:08:00] to [00:09:25], and its transcript [CAR-OTP-2087-8944](#), at 8948-8949, l.121-148.

<sup>222</sup> **P-0966:** [CAR-OTP-2031-0241-R01](#), at 0251, para.59; **P-2602:** [CAR-OTP-2118-9598-R01](#), at 9607-9610, l.313-419, [CAR-OTP-2118-9617-R01](#), at 9619-9621, l.64-116; [CAR-OTP-2001-4020](#), at 4020; [CAR-OTP-2032-0034](#), at 0034; [CAR-OTP-2001-6251](#), at 6293, para.2.

<sup>223</sup> **P-2602:** [CAR-OTP-2118-9525-R01](#), at 9531-9532, l.200-242, [CAR-OTP-2118-9617-R01](#), at 9634-9638, l.557-704; [CAR-OTP-2084-1275](#) and its transcript and translation [CAR-OTP-2107-6973](#), at 6974-6976, l.4-82 and [CAR-OTP-2107-7117](#), at 7119-7121, l.4-85; **P-0567:** [CAR-OTP-2059-0084-R02](#), at 0107, para.154; **P-0966:** [CAR-OTP-2031-0241-R01](#), at 0248-0251, para.40; **P-1521:** [CAR-OTP-2046-0603-R01](#), at 0608-0610, paras.30-43; **P-0992:** [CAR-OTP-2122-6499-R01](#), at 6515, para.100.

<sup>224</sup> See paras.87, 274.

<sup>225</sup> **P-2602:** [CAR-OTP-2118-9525-R01](#), at 9531-9532, l.200-242, [CAR-OTP-2118-9617-R01](#), at 9634-9638, l.557-704; **P-0458:** [CAR-OTP-2118-2319-R01](#), at 2326-2327, 2329, l.206-241, 324-325; [CAR-OTP-2054-0658](#); **P-0966:** [CAR-OTP-2031-0241-R01](#), at 0247, 0251-0252, paras.33-36, 59-63; **P-1521:** [CAR-OTP-2046-0603-R01](#), at 0608-0610, paras.31-39, 43.

<sup>226</sup> See below, para.107.

e) *FRANCE-group – (FROCCA)*

i. Creation

96. In or around July 2013, BOZIZE and members of his inner circle met in PARIS to create FROCCA. The group included the former President, **NGAISSONA**, OGUERE, YAKETE, KOKATE, [REDACTED], Lin BANOUKEPA, Jean-Serge WAFIO, Yvon SONGUET and others. It advocated the return of CAR's constitutional order – an euphemism for BOZIZE's return to power,<sup>227</sup> which was abruptly ended by the 24 March 2013 *Coup*. The LIBREVILLE Agreement provided for the expiry of BOZIZE's term in 2016.<sup>228</sup>

97. In the July 2013 FROCCA Protocol Agreement,<sup>229</sup> **NGAISSONA** — a founding member — was named as one of eight functionaries, specifically as “*Responsable des affaires intérieures et des associations*”.<sup>230</sup> BANOUKEPA is designated FROCCA's Coordinator.<sup>231</sup>

98. With the objective to “[r]établir aussi promptement, en Centrafrique, l'ordre constitutionnel détruit par les ennemis de la Nation qui, en intelligence avec des mercenaires islamistes, ont infligé au peuple Centrafricain et à la Nation toute entière la pire humiliation, la misère et des violations quotidiennes des droits humains (...)” (article 1), the FROCCA Protocol Agreement provided for three contingent plans to achieve BOZIZE's return to power, namely diplomatic, political, and strategic (article 2).<sup>232</sup>

<sup>227</sup> **P-2625** : [CAR-OTP-2123-0377-R01](#), at 0391-0392, paras.84-89; **P-0801**: [CAR-OTP-2074-2120-R01](#), at 2128, l.257-269, [CAR-OTP-2074-2065-R01](#), at 2066-2072, l.13-217; **P-0884**: [CAR-OTP-2080-1678-R01](#), at 1707-1708, l.985-1016; [CAR-OTP-2001-4048](#), at 4048; **P-1847**: [CAR-OTP-2061-1534-R01](#), at 1549, paras.98-100; [CAR-OTP-2122-8251-R01](#), at 8258, para.56; [CAR-OTP-2001-4048](#), at 4048. See also: [CAR-OTP-2100-4217](#), at 4220, 13:11:48. For the objective of FROCCA to bring BOZIZE back to power, see **P-0808**: [CAR-OTP-2025-0324-R03](#), at 0348-0349, para.151; [CAR-OTP-2091-1793](#), at 1794; [CAR-OTP-2091-1804](#), at 1804-1805; [CAR-OTP-2091-1779](#); [CAR-OTP-2001-4146](#). See also [CAR-OTP-2069-3544-R01](#).

<sup>228</sup> [CAR-OTP-2054-1346](#), at 1346, article 1.

<sup>229</sup> [CAR-OTP-2124-0852](#), at 0853.

<sup>230</sup> **P-0801**: [CAR-OTP-2074-2120-R01](#), at 2128, l.257-269, [CAR-OTP-2074-2065-R01](#), at 2066-2072, l.13-217; **P-0884**: [CAR-OTP-2080-1678-R01](#), at 1707-1708, l.987-1016; [CAR-OTP-2100-4217](#), at 4220, 13:11:48; [CAR-OTP-2102-2520](#) at 2641, 21:42:32-21:43:59; [CAR-OTP-2124-0852](#), at 0858-0859; [CAR-OTP-2124-0002-R01](#).

<sup>231</sup> [CAR-OTP-2124-0852](#), at 0858-0859; **P-0801**: [CAR-OTP-2074-2065-R01](#), at 2069-2979, l.117-148; **P-0808**: [CAR-OTP-2025-0324-R03](#), at 0349, para.151; [CAR-OTP-2001-4048](#), at 4048; [CAR-OTP-2019-1383](#), at 1388.

<sup>232</sup> [CAR-OTP-2124-0852](#), at 0854-0856, articles 1, 2 and 3.

99. The ‘*Plan Stratégique*’ — i.e. the military option — refers to affronts inflicted by the “Islamic invaders” and prescribed four key actions: (i) galvanise human resources, financial resources and material; (ii) procure secure communications against intelligence gathering, including through the provision of Thurayas; (iii) set up a flexible coordination, capable of fast and efficient strategic action; and (iv) restore confidence of, and enlist the disillusioned elements of law enforcement, who are only waiting for favourable circumstances to “wash away” the affront inflicted by Islamist invaders without faith or law:<sup>233</sup>

***Au Plan Stratégique :***

*Prendre toutes les dispositions sécuritaires pour éviter au Peuple Centrafricain, déjà meurtri, d’autres épreuves plus dures, notamment :*

- *Le FROCCA doit se procurer tous les moyens humains, matériels et financiers pour l’atteinte de ses objectifs;*
- *Le FROCCA doit se trouver les moyens de communication pouvant éviter au décryptage par les services de renseignements, de préférence les turahayas;*
- *Le FROCCA doit se doter d’une coordination souple et pratique pour des actions stratégiques rapides et efficaces;*
- *Remettre en confiance et faire adhérer les éléments des forces de l’ordre, désabusés, qui n’attendent que des circonstances favorables pour laver l’affront infligé par des envahisseurs islamistes sans foi ni loi.*

100. In terms of modalities (article 3), the document expressly foresees, *inter alia*, putting in place a “*Coordination Stratégique, avec des points focaux dans les pays voisins de la République Centrafricaine, et dans les différentes régions du pays*”; and providing “à chaque entité les moyens indispensables pour la conduite et le succès des actions”.<sup>234</sup>

ii. Progressing the ‘*Plan Stratégique*’

101. After the public announcement of its creation on 5 August 2013,<sup>235</sup> other FROCCA meetings took place. Further strategies were discussed. At those meetings, **NGAISSONA** briefed the other principals in the group including on his interactions in the field with the PG stationed in CAMEROON and with the elements in the areas of BANGUI and BOSSANGO, explaining that his elements were determined and motivated to fight the

<sup>233</sup> [CAR-OTP-2124-0852](#), at 0854-0855, article 2.

<sup>234</sup> [CAR-OTP-2124-0852](#), at 0855-0856, article 3.

<sup>235</sup> [CAR-OTP-2074-0366](#), at 0375; [CAR-OTP-2001-4048](#).

Seleka.<sup>236</sup> **NGAISSONA** also briefed them on the availability of ammunition and weapons.<sup>237</sup> On occasion, he would call MOKOM to receive current updates on military advances.<sup>238</sup> At other meetings, instructions were given by BOZIZE, including *e.g.* to SONGUET, to send money to the soldiers stationed in CAMEROON, in addition to the money already sent there to buy weapons.<sup>239</sup>

102. As described above, in the weeks that followed, Bernard MOKOM, **NGAISSONA**, and others, took concrete steps furthering the strategy<sup>240</sup> in coordination with YAKETE and KOKATE (who BOZIZE designated [REDACTED]).<sup>241</sup>

### iii. FROCCA and Anti-Balaka

103. In the months following its formation, FROCCA members continued to meet,<sup>242</sup> and proceeded to develop a military capacity, *first* by integrating militia groups in CAR, including YAKETE's *Mouvement révolutionnaire populaire pour la libération* ("MOREPOL") and KOKATE's *Collectif des officiers libres* ("COL"),<sup>243</sup> *second* by enlisting FACA combatants as well as new recruits<sup>244</sup>.

104. The Anti-Balaka were an instrumentality of FROCCA<sup>245</sup> — they were a means to an end. Thus, in September 2013, FROCCA claimed the first major Anti-Balaka military offences that

<sup>236</sup> [REDACTED].

<sup>237</sup> [REDACTED].

<sup>238</sup> [REDACTED].

<sup>239</sup> **P-2625:** [CAR-OTP-2123-0377-R01](#), at 0393, para.93, 96 and at 0397, para.120; **P-0801:** [CAR-OTP-2074-2643-R02](#), at 2661, 1,576-584; **P-1074:** [CAR-OTP-2094-0228-R02](#), at 0238, para.57.

<sup>240</sup> See above, paras.71-7264.

<sup>241</sup> **P-2841:** [CAR-OTP-2127-4238-R01](#), at 4252, 4265, paras.78, 154; [CAR-OTP-2101-9735](#), at 9829-9831, 19:05:20-19:31:53; [CAR-OTP-2101-8599](#), at 8703-8705, 08:16:19-08:47:43; [CAR-OTP-2101-8599](#), at 8707-8710, 07:52:31-08:19:25; [CAR-OTP-2101-8599](#), at 8719-8721, 12:59:49-13:30:22.

<sup>242</sup> [REDACTED].

<sup>243</sup> See Annex B (List of Individuals and Organisations supporting BOZIZE). See also [CAR-OTP-2001-4043](#), at 4044; [CAR-OTP-2088-2398](#), at 2400; [CAR-OTP-2103-4846](#), at 4848, 12:33:12-12:44:48; [CAR-OTP-2101-8129](#), at 8130, 06:53:34, 07:58:56;

For COL of KOKATE see [CAR-OTP-2103-4844](#), at 4844, 17:27:11; [CAR-OTP-2084-1163](#); [CAR-OTP-2043-0201](#); [CAR-OTP-2069-3544-R01](#); [CAR-OTP-2041-0824](#). For MOREPOL see [CAR-OTP-2103-4841](#), at 4841, 17:42:30; [CAR-OTP-2001-4043](#); [CAR-OTP-2123-0461](#). For MPJCA see [CAR-OTP-2103-4829](#), at 4829, 00:26:32. For FPDC see [CAR-OTP-2103-4837](#) at 4837, 08:21:31.

For CJDC see [CAR-OTP-2103-4843](#), at 4843, 15:02:34. For CPSK see [CAR-OTP-2103-4828](#), 20:36:14, [CAR-OTP-2102-8254](#), at 8256, 20:51:18.

<sup>244</sup> [CAR-OTP-2001-5739](#), at 5782-5783; [CAR-OTP-2001-4146](#); [CAR-OTP-2001-4020](#); [CAR-OTP-2091-0434](#).

<sup>245</sup> **P-2625:** [CAR-OTP-2123-0377-R01](#), at 0399, para.128; [CAR-OTP-2100-8929](#), at 8947, 08:44:11-08:48:49.

month in BOSSANGO and BOUCA.<sup>246</sup> Both YAKETE and **NGAISSONA** admit having their men on the ground:<sup>247</sup>



#### iv. Anti-Muslim propaganda

105. The FROCCA Protocol Agreement refers to '*mercenaires islamistes*' and '*envahisseurs islamistes sans foi ni loi*', reflecting the organisation's agenda promoted by Coordinator BANOUKEPA, in urging the 'population' (i.e., non-Muslims) to chase so-called "islamists" and the "djihadists" from CAR. BANOUKEPA's public statements claimed that local Muslims were in collaboration with the Seleka, and stoked fears with inflammatory rhetoric, such as the intention of the Seleka and its supporters to "*islamiser*" CAR.<sup>248</sup> The same rhetoric was expressed during FROCCA meetings and

<sup>246</sup> [CAR-OTP-2102-6699](#), at 6764-6765, 12:15:37-12:36:18; **P-2841**: [CAR-OTP-2127-4238-R01](#), at 4248, para.58; [CAR-OTP-2102-8377](#), at 8378, 04:43:27; [CAR-OTP-2054-1470](#); [CAR-OTP-2088-2946](#), at 2949; [CAR-OTP-2001-4170](#); [CAR-OTP-2091-1797](#), at 1797-1799; [CAR-OTP-2091-1785](#), at 1785-1786; [CAR-OTP-2091-1707](#), at 1707; [CAR-OTP-2091-1791](#), at 1791-1792; [CAR-OTP-2074-0278](#), at 0287, column 1-2; [CAR-OTP-2091-1743](#), at 1752, column 2 in fine, column 3; [CAR-OTP-2074-0377](#), at 0381, column 1, para.4; [CAR-OTP-2074-0421](#), at 0429, 0431, columns 1-2.

<sup>247</sup> [CAR-OTP-2124-0823](#); [CAR-OTP-2101-6897](#) at 6900-6901, 12:57:49-13:24:20, see **P-2673**: [CAR-OTP-2127-6435-R01](#), at 6450-6451, paras.98-99, 103.

<sup>248</sup> [CAR-OTP-2124-0852](#); [CAR-OTP-2081-1422](#); [CAR-OTP-2094-0387](#); [CAR-OTP-2001-4048](#), at 4048; [CAR-OTP-0075-2041](#), at 2055; [CAR-OTP-2094-0387](#), at 0391-0392; [CAR-OTP-2091-1711](#); [CAR-OTP-2091-0446](#); [CAR-OTP-2081-1422](#); [CAR-OTP-2091-1714](#); [CAR-OTP-2123-0466](#); [CAR-OTP-2091-1732](#), at 1732-1733; [CAR-OTP-2069-3540](#), at 3540-3541; [CAR-OTP-2088-2035](#); [CAR-OTP-2091-1728](#); [CAR-](#)

shared by its members, including **NGAISSONA** and **YAKETE**.<sup>249</sup> In essence, it simply repeated what **BOZIZE**, **YAMBETE**, **YAKETE**, and **NGAISSONA** expressed earlier that year, and would continue to promote.<sup>250</sup>

106. To advance their objectives, FROCCA and its members used the threat of ‘Islamisation’ to frighten and mobilise the population. They claimed that CAR had to be protected from the ‘foreigners’ — Muslims presumed to support the Seleka, including civilians, and regardless of their nationality. Their propaganda was designed to generate, and generated hatred of the Muslim population shared by **NGAISSONA**, **YAKETE** and **BOZIZE**, privately and publicly,<sup>251</sup> and among military elements on the ground. FROCCA’s rhetoric fed and found expression in the Anti-Balaka organisational Criminal Policy and Common Purpose, in the group’s violent and retributive targeting of the Muslim,<sup>252</sup> who, based on their religious, national or ethnic affiliation, were perceived as collectively responsible for, complicit with, and/or supportive of, the Seleka.

107. As it had done in respect of the Anti-Balaka’s September 2013 attacks on BOUCA and BOSSANGO, FROCCA claimed responsibility for the Anti-Balaka 5 December 2013 BANGUI Attack.<sup>253</sup> As the operation was underway, FROCCA Coordinator BANOUKEPA acknowledged the following in an international radio interview:

*“Le rétablissement de l’ordre constitutionnel [phon.] en cours aujourd’hui à BANGUI. Nous nous revendiquons l’espace, l’organe politique, pour sauver nos citoyens, au FROCCA. Et nous revendiquons aujourd’hui notre part auprès de vos jeunes frères et sœurs qui, eux, sont en action. Donc nous sommes ensemble, et nous sommes la tête politique. [...]”*

*En ce jour du 5 décembre, j’appelle tous les Centrafricains à se lever comme un seul homme pour bouter hors de notre territoire la composante islamique étrangère, envahissante, criminogène [phon.] qui sévit, qui humilie. Et [phon.]”*

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[OTP-2001-4016](#); [CAR-OTP-2123-0469](#); [CAR-OTP-2089-0056](#), at 0057-0058; [CAR-OTP-2091-1722](#), at 1722-1723; [CAR-OTP-2088-2034](#), from [00:00:00] to [00:02:11] and its transcript [CAR-OTP-2107-1596](#); [CAR-OTP-2091-1739](#), at 1739-1740.

<sup>249</sup> **P-2625**: [CAR-OTP-2123-0377-R01](#), at 0395, para.104; [CAR-OTP-2001-4016](#).

<sup>250</sup> [CAR-OTP-2091-1783](#); [CAR-OTP-2114-0543](#), at 0545-0546, 20:55:40.

<sup>251</sup> [REDACTED].

<sup>252</sup> [CAR-OTP-2066-5308](#), from [00:00:00] to [00:03:31] and its transcript and translation [CAR-OTP-2107-6935](#) and [CAR-OTP-2122-2307](#); [CAR-OTP-2085-2953](#), from [00:00:00] to [00:16:05] and its transcript and translation [CAR-OTP-2107-6989](#), and [CAR-OTP-2107-7137](#).

<sup>253</sup> [CAR-OTP-2091-0433](#); [CAR-OTP-2114-0550](#), at 0550-0551; [CAR-OTP-2091-0473](#).

*l'objet de notre appel au soutien de l'action de libération de ce 5 décembre de nos jeunes sœurs et frères du Balaka*".<sup>254</sup>

108. **NGAISSONA** was in full agreement with **BANOUKEPA**'s declaration and claim.<sup>255</sup>

### **C. THE ANTI-BALAKA AND SELEKA WERE ENGAGED IN AN ARMED CONFLICT IN WESTERN CAR**

109. By September 2013, the Anti-Balaka was an organised armed group engaged in a sustained and intense armed conflict against the Seleka in western CAR.<sup>256</sup> Anti-Balaka attacks began near **BOSSANGO**A<sup>257</sup> and spread east to **BOUCA** in **OUHAM** Prefecture, west to **BELOKO**, **BOHONG**, and **BOUAR** in **NANA-MAMBERE** Prefecture,<sup>258</sup> and then south, to **BOSSEMBELE** and **BOALI** in **OMBELLA-M'POKO** Prefecture.<sup>259</sup>

<sup>254</sup> [CAR-OTP-2088-2034](#), from [00:00:00] to [00:02:11] and its transcript [CAR-OTP-2107-1596](#); [CAR-OTP-2081-0235](#).

<sup>255</sup> [REDACTED].

<sup>256</sup> **P-0975**: [CAR-OTP-2033-7885-R02](#), at 7890, paras.32-36; **P-2232**: [CAR-OTP-2100-2569-R01](#), at 2574-2575, para.28; [CAR-OTP-2055-1987](#), at 2241-2242; [CAR-OTP-2003-1592](#), at 1624, 1627-1628; **P-2546**: [CAR-OTP-2114-0402-R01](#), at 0411-0413, paras.34, 40; **P-1779**: [CAR-OTP-2087-9894-R01](#), at 9903-9904, paras.52, 59-60; [CAR-OTP-2003-1592](#), at 1645, point 1; [CAR-OTP-2003-1592](#), at 1648, point 3; [CAR-OTP-2003-1592](#), at 1649, points 1, 2; [CAR-OTP-2003-1592](#), at 1651, point 3; **P-2377**: [CAR-OTP-2108-1285](#), from [00:00:23] to [00:02:17] and its transcript and translation [CAR-OTP-2127-4139](#), at 4140, l.7-29, [CAR-OTP-2127-4181](#), at 4143, l.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, l.16-22.

<sup>257</sup> **P-0992**: [CAR-OTP-2122-6499-R01](#), at 6514, para.96; **P-0567**: [CAR-OTP-2059-0084-R02](#), at 0107, para.154; **P-0966**: [CAR-OTP-2031-0241-R01](#), at 0248-0251, paras.40-55; **P-1521**: [CAR-OTP-2046-0603-R01](#), at 0608-0610, paras.30-43; **P-2377**: [CAR-OTP-2108-0609-R01](#), at 0616-0617, paras.34-36, [CAR-OTP-2108-0632](#), at 0644-0645; [CAR-OTP-2108-0678](#), from [00:00:00] to [00:00:45] and its transcript and translation [CAR-OTP-2130-0333](#), [CAR-OTP-2130-0381](#), at 0383, l.7-24; [CAR-OTP-2001-7017](#), at 7035, para.46; [CAR-OTP-2001-0835](#), at 0875, para.1; [CAR-OTP-2084-1271](#), from [00:00:50] to [00:03:33] and its transcript [CAR-OTP-2107-1570](#), at 1571-1573, l.16-83; [CAR-OTP-2084-1275](#), from [00:00:00] to [00:05:13] and its transcript and translation [CAR-OTP-2107-6973](#) and [CAR-OTP-2107-7117](#); [CAR-OTP-2061-1428](#), at 1428; [CAR-OTP-2003-1592](#), at 1642, point 3.

<sup>258</sup> For the September-November 2013 attack on **BOUCA**, see **P-0966**: [CAR-OTP-2031-0241-R01](#), at 0248, para.42; [CAR-OTP-2001-2769](#), at 2786; **P-2041**: [CAR-OTP-2104-0003-R01](#), at 0007, paras.25-30; **P-0460**: [CAR-OTP-2013-0536-R01](#), at 0542, para.32; **P-2652**: [CAR-OTP-2126-0175-R01](#), at 0184, para.47; **P-0520**: [CAR-OTP-2050-0788-R01](#), at 0799, para.56; **P-0992**: [CAR-OTP-2122-6499-R01](#), at 6515, para.100. For the November 2013 attack on Seleka in **BELOKO**, see **P-1847**: [CAR-OTP-2061-1534-R01](#), at 1555-1556, paras.136-140, 142. On the September–December 2013 attack in **BOHONG**, see [CAR-OTP-2100-1790](#), at 1791. For attacks on **BOUAR** in November 2013, see **P-2328**: [CAR-OTP-2099-0165-R01](#), at 0182, para.91; **P-0992**: [CAR-OTP-2122-6499-R01](#), at 6514, para.97; [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, l.16-22.

<sup>259</sup> For the October-December 2013 attack in **BOSSEMBELE**, see [CAR-OTP-2001-0329](#), at 0338, para.45; **P-2232**: [CAR-OTP-2090-0561-R03](#), at 0574, para.80; **P-0992**: [CAR-OTP-2122-6499-R01](#), at 6515, para.100; **P-0458**: [CAR-OTP-2118-5154-R01](#), at 5182, l.920-959. For the December 2013 attack in **BOALI**, see [CAR-OTP-2001-2769](#), at 2788; **P-2546**: [CAR-OTP-2114-0402-R01](#), at 0414-0415, paras.45, 48, 51; **P-0505**: [CAR-OTP-2014-0129-R01](#), at 0134, para.32; **P-2377**: [CAR-OTP-2108-0609-R01](#), at 0618, para.43. See also rushes dated 4DEC2013 filmed by P-2377 in **BANGUI**: [CAR-OTP-2108-0681](#), from [00:00:00] to [00:02:08] [transcript and

110. Around mid-November 2013, under MOKOM's coordination,<sup>260</sup> Anti-Balaka groups from BOSSANGOA, BOUCA, BOUAR, and BOSSEMBELE marched south to carry out the 5 December 2013 BANGUI Attack.<sup>261</sup>

111. In addition, MOKOM deployed Anti-Balaka elements from ZONGO to BANGUI<sup>262</sup> and secured additional ammunition for the attack.<sup>263</sup> They gathered behind BOY-RABE hill to strategise.<sup>264</sup> In consultation with MOKOM, **YEKATOM** moved his elements from KALANGOI to PROJET (near BANGUI's M'Poko Airport) in preparation for the 5

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translation request pending with LSU]; [CAR-OTP-2108-1298](#), from [00:00:00] to [00:02:34] and its transcript [CAR-OTP-2127-6709](#), at 6710, l.6-32; [CAR-OTP-2108-1299](#), from [00:00:00] to [00:00:10] [transcript and translation request pending with LSU]; [CAR-OTP-2108-1300](#), from [00:00:03] to [00:04:38] and its transcript and translation [CAR-OTP-2130-0345](#) and [CAR-OTP-2130-0399](#), at 0401-0403, l.5-85; [CAR-OTP-2108-1301](#), from [00:00:00] to [00:00:11] and its transcript [CAR-OTP-2127-6781](#), at 6782, l.3-8; [CAR-OTP-2108-1302](#), from [00:00:00] to [00:00:13] and its transcript [CAR-OTP-2127-6783](#), at 6784, l.4; [CAR-OTP-2108-1303](#), from [00:00:00] to [00:00:05] and its transcript [CAR-OTP-2127-6785](#), at 6786, l.3-4; [CAR-OTP-2108-1304](#), from [00:00:00] to [00:00:17] [transcript and translation request pending with LSU]; [CAR-OTP-2108-1305](#), from [00:00:00] to [00:00:06] and its transcript [CAR-OTP-2127-6787](#), at 6788, l.3-8; [CAR-OTP-2108-1306](#), from [00:00:00] to [00:00:05] and its transcript [CAR-OTP-2127-6789](#), at 6790, l.3-9; [CAR-OTP-2108-1307](#), from [00:00:00] to [00:00:05] [transcript and translation request pending with LSU]; [CAR-OTP-2108-1308](#), from [00:00:00] to [00:00:13] and its transcript and translation [CAR-OTP-2122-9639](#), [CAR-OTP-2122-9706](#), at 9708, l.3-11; [CAR-OTP-2108-1311](#), from [00:00:00] to [00:00:10] and its transcript [CAR-OTP-2127-6791](#), at 6792, l.3-9; [CAR-OTP-2108-1312](#) from [00:00:00] to [00:02:31] and its transcript [CAR-OTP-2127-6793](#), at 6794, l.3-30; [CAR-OTP-2108-1313](#), from [00:00:00] to [00:00:35] and its transcript and translation [CAR-OTP-2130-0349](#), at 0350, l.3-9, [CAR-OTP-2130-0405](#), at 0407, l.3-9; [CAR-OTP-2108-1314](#), from [00:00:00] to [00:00:06] and its transcript and translation, [CAR-OTP-2127-4142](#), [CAR-OTP-2127-4185](#), at 4187, l.1-7; [CAR-OTP-2108-1315](#), from [00:00:00] to [00:00:06] and its transcript and translation [CAR-OTP-2127-4144](#), [CAR-OTP-2127-4188](#), at 4190, l.1-2.

<sup>260</sup> **P-1521**: [CAR-OTP-2046-0603-R01](#), at 0610, para.43; **P-0884**: [CAR-OTP-2072-1541-R01](#), at 1559-1562, l.615-705, [CAR-OTP-2080-1678-R01](#), at 1680-1686, l.46-278; **P-0889**: [CAR-OTP-2027-2290-R01](#), at 2295-2297, paras.31-40; **P-2232**: [CAR-OTP-2090-0561-R03](#), at 0572-0574, paras.73, 78-79, 86, [CAR-OTP-2100-2569-R01](#), at 2573, 2575, paras.19, 33; **P-0446**: [CAR-OTP-2059-1498-R01](#), at 1517-1518, l.708-711, 741-748, [CAR-OTP-2059-1626-R01](#), at 1640-1641, l.532-595, [CAR-OTP-2059-1672-R01](#), at 1693, l.772-783.

<sup>261</sup> [CAR-OTP-2030-0255](#), at 0256; [CAR-OTP-2025-0362](#), at 0364; [CAR-OTP-2025-0372](#), at 0374; [CAR-OTP-2025-0396](#), at 0398; **P-0808**: [CAR-OTP-2025-0324-R03](#), at 0331-0332, paras.50-53; **P-0975**: [CAR-OTP-2033-7885-R02](#), at 7889-7891, paras.30-31, 37-38; **P-1521**: [CAR-OTP-2046-0603-R01](#), at 0608-0610, paras.30-35, 43; **P-1847**: [CAR-OTP-2061-1534-R01](#), at 1560, paras.165-166; [CAR-OTP-2084-1287](#), from [00:03:06] to [00:05:00] and its transcript and translation [CAR-OTP-2127-6248](#), [CAR-OTP-2127-6368](#), at 6372, l.74-87.

<sup>262</sup> **P-2232**: [CAR-OTP-2100-2569-R01](#), at 2575-2576, paras.33-36, [CAR-OTP-2090-0561-R03](#), at 0570, para.74; **P-2027**: [CAR-OTP-2078-0059-R02](#), at 0076, para.97; **P-1521**: [CAR-OTP-2046-0603-R01](#), at 0610, para.43; **P-0446**: [CAR-OTP-2059-1626-R01](#), at 1646-1647, l.741-790; [CAR-OTP-2001-6251](#), at 6293, para.3.

<sup>263</sup> [CAR-OTP-2027-2290-R01](#), at 2296, para.35.

<sup>264</sup> **P-1521**: [CAR-OTP-2046-0603-R01](#), at 0610, 0612, paras.44, 56; **P-0889**: [CAR-OTP-2027-2290-R01](#), at 2297, 2304, paras.38-40, 87; **P-0446**: [CAR-OTP-2059-1523-R01](#), at 1525, l.53-61; [CAR-OTP-2059-1567-R01](#), at 1568, l.31-76; **P-0808**: [CAR-OTP-2025-0324-R03](#), at 0332, paras.52-53; **P-0975**: [CAR-OTP-2033-7885-R02](#), at 7890, para.37; **P-2027**: [CAR-OTP-2078-0059-R02](#), at 0076, para.99; **P-1847**: [CAR-OTP-2061-1534-R01](#), at 1559-1561, 1564, paras.158-160, 165, 174, 189; **P-2328**: [CAR-OTP-2099-0165-R01](#), at 0179-0180, para.75; **P-0306**: [CAR-OTP-2118-4791-R01](#), at 4797, l.192-197, 213-214, [CAR-OTP-2118-4943-R01](#), 4947-4949, l.111-145, 175-178, [CAR-OTP-2118-4961-R01](#), at 4968-4969, l.244-287.

December 2013 BANGUI Attack.<sup>265</sup> The Anti-Balaka made clear that the group did not want dialogue — but war.<sup>266</sup>

#### D. 5 DECEMBER 2013 ATTACKS IN BANGUI AND BOSSANGO

112. On 5 December 2013, the Anti-Balaka launched a coordinated attack on several strategically important localities in western CAR, including BANGUI and BOSSANGO, attacking Seleka positions and targeting Muslim civilians. These attacks were led by the group of Anti-Balaka elements from GOBERE to whom **NGAISSONA** and Bernard MOKOM provided money and ammunition, and who were coordinated by MOKOM who was likewise involved with the two in their preparation.<sup>267</sup>

113. In the early hours of 5 December 2013, over a thousand Anti-Balaka elements mounted an armed attack on BANGUI<sup>268</sup> under MOKOM's coordination from ZONGO.<sup>269</sup> Likewise, in the afternoon of 5 December 2013, Anti-Balaka led by KEMA and his deputy MANDAGO attacked BOSSANGO,<sup>270</sup> as described further below.

<sup>265</sup> See below, para.396.

<sup>266</sup> **P-0876**: [CAR-OTP-2046-0249-R01](#), at 0259-0261, l.382-491, [CAR-OTP-2046-0407-R01](#), at 0409-0416, l.73-340; [CAR-OTP-2084-1319](#), from [00:05:03] to [00:05:13] and its transcript [CAR-OTP-2107-1577](#), at 1579, l.47-48; [CAR-OTP-2084-1323](#), from [00:00:00] to [00:00:25] and its transcript [CAR-OTP-2107-1580](#), at 1581, l.4-8.

<sup>267</sup> See above, paras.75-76.

<sup>268</sup> [CAR-OTP-2027-1631](#), at 1648; [CAR-OTP-2001-0409](#), at 0409, para.3; [CAR-OTP-2042-5051](#), at 5051; [CAR-OTP-2055-1987](#), at 2134; [CAR-OTP-2001-0835](#), at 0875, para.3; [CAR-OTP-2001-2769](#), at 2776; [CAR-OTP-2101-8391](#), at 8432, 07:42:35; [CAR-OTP-2101-9735](#), at 9885, 16:58:34.

<sup>269</sup> On MOKOM's organisational role, see **P-2232**: [CAR-OTP-2100-2569-R01](#), at 2575-2576, paras.32, 37-38. On the generally coordinated nature of the attack, see **P-1074**: [CAR-OTP-2094-0228-R02](#), at 0239-0240, paras.63-64. CDR show that on 4-5 December 2013 MOKOM ([REDACTED]) communicated with Anti-Balaka commanders and leaders such as: BATCHIMANDJI ([REDACTED]), BEJOUANE ([REDACTED]), BEOROFEI ([REDACTED]), DEDANE ([REDACTED]), [REDACTED], MOKOM Rocco ([REDACTED]), NAMGUENDE ([REDACTED]), Jean Noel OROFEI ("OROFEI Jean") ([REDACTED]), TOUABOYE ([REDACTED]), [REDACTED], TRIBUNAL ([REDACTED]), [REDACTED], [REDACTED], YAGOUZOU ([REDACTED]) and **YEKATOM** ([REDACTED]): [CAR-OTP-2054-1480](#); [CAR-OTP-2068-0033](#); [CAR-OTP-2071-1116](#). For the attributions of the relevant telephone numbers, see Annex D.

<sup>270</sup> **P-0966**: [CAR-OTP-2031-0241-R01](#), at 0251, paras.59-61; **P-2200**: [CAR-OTP-2088-2146-R02](#), at 2155, para.44; **P-2049**: [CAR-OTP-2088-2173-R02](#), at 2187, 2188, paras.75-77, 79; **P-1577**: [CAR-OTP-2081-0769-R01](#), at 0785, 0790; [CAR-OTP-2085-6486](#), from [00:00:00] to [00:04:48] and its transcript and translation [CAR-OTP-2107-6999](#) and [CAR-OTP-2107-7148](#); **P-2453**: [CAR-OTP-2111-0415-R02](#), at 0428-0429, paras.61-64; **P-2269**: [CAR-OTP-2111-0336-R01](#), at 0344, para.58; **P-2658**: [CAR-OTP-2126-0012-R01](#), at 0033, para.131; **P-2657**: [CAR-OTP-2126-0058-R01](#), at 0064, para.36.

114. In the weeks that followed, systematic house searches and killings by the Seleka and Anti-Balaka took place in various BANGUI neighbourhoods,<sup>271</sup> and throughout western CAR.<sup>272</sup>

#### **E. RESIGNATION OF PRESIDENT DJOTODIA AND ELECTION OF INTERIM-PRESIDENT SAMBA-PANZA**

115. President DJOTODIA's 10 January 2014 resignation under international pressure due to the worsening armed conflict, forced the Seleka's retreat.<sup>273</sup> Most Seleka forces, having regrouped in BANGUI cantonment sites since December 2013, withdrew to the north and the east of the country, leaving Muslim civilians in BANGUI and throughout western CAR vulnerable to Anti-Balaka attacks.<sup>274</sup> As one NGO observed:

“By mid-January 2014, after Seleka leader Michel Djotodia resigned from the presidency, and the Seleka began to retreat from their former strongholds *across the country*, members of the Muslim community believed themselves to be in mortal danger.”<sup>275</sup>

As the events described below show, they were right.

116. On 20 January 2014, BANGUI Mayor Catherine SAMBA-PANZA (“SAMBA-PANZA”) was elected CAR's interim President and head of the transition government.<sup>276</sup>

<sup>271</sup> [CAR-OTP-2001-0329](#), at 0329, paras.2-3; **P-2377**: [CAR-OTP-2108-0609-R01](#), at 0621-0622, 0628, paras.58, 74.

<sup>272</sup> [CAR-OTP-2001-0409](#), at 0409-0410, paras.3-7; [CAR-OTP-2001-7017](#), at 7090, para.303.

<sup>273</sup> [CAR-OTP-2025-0372](#), at 0374; [CAR-OTP-2025-0362](#), at 0364; [CAR-OTP-2025-0396](#), at 0399; [CAR-OTP-2001-4199](#), at 4199; [CAR-OTP-2001-2203](#), at 2215.

<sup>274</sup> Seleka mostly retreated from BANGUI and the western parts of the CAR and regrouped in locations in the northern and north-eastern parts of the country, including KAGA BANDORO, NDÉLÉ, BANGASSOU and BAMBARI, where Seleka established its military headquarters in May 2014. See [CAR-OTP-2001-0409](#), at 0410-0411, paras.8-9.

<sup>275</sup> [CAR-OTP-2001-2203](#), at 2215.

<sup>276</sup> [CAR-OTP-2025-0372](#), at 0374; [CAR-OTP-2025-0362](#), at 0364; [CAR-OTP-2025-0396](#), at 0399; [CAR-OTP-2001-0835](#), at 0866, para.17.

## F. FORMALISATION OF THE ANTI-BALAKA UNDER NGAISSONA

### a) *Structure of the Anti-Balaka*

117. To leverage the Anti-Balaka's military strength, the group presented a formal leadership structure — the National Coordination so that it could engage CAR's transition government, particularly in respect of its political demands.<sup>277</sup>

118. On NGAISSONA's 14 January 2014 return from CAMEROON,<sup>278</sup> he was designated the Anti-Balaka National General Coordinator at a meeting he organised in BOY-RABE.<sup>279</sup> As such, the National Coordination fell under NGAISSONA's authority.<sup>280</sup> He held and exercised *de jure* control and authority over Anti-Balaka groups in BANGUI and in the provinces, who were formally and politically under the umbrella of the National Coordination.<sup>281</sup>

119. Initially, the group's formal structure also comprised, *inter alia*, the following positions: National Coordinator of Operations (MOKOM), Zone Coordinator (YAGOUZOU), Chief of Staff (NGREMANGOU and later BEJOUANE), Deputy Chief of Staff (AZOUNOU), Spokesperson(s) (NAMSIO and WENEZOU), and Secretary (Judicaël OROFE MOGANAZOUM ("Judicaël OROFE")).<sup>282</sup>

120. The National Coordination formalised the pre-existing *de facto* Anti-Balaka structure in BANGUI and in the western provinces. NGAISSONA acknowledged and/or

<sup>277</sup> P-2625: [CAR-OTP-2123-0377-R01](#), at 0404, paras.161-162; [CAR-OTP-2042-1909](#), from [00:09:10] to [00:10:58] and its transcript [CAR-OTP-2107-1479](#); P-0884: [CAR-OTP-2072-1479-R01](#), at 1482-1484, l.109-175, [CAR-OTP-2080-1678-R01](#), at 1704-1705, l.899-924.

<sup>278</sup> [CAR-OTP-2098-0107](#), at 0110; [CAR-OTP-2003-1076](#), at 1086; P-2012: [CAR-OTP-2091-0127-R01](#), at 0134, para.32; [CAR-OTP-2104-0337-R01](#), at 0338.

<sup>279</sup> See below, para.258.

<sup>280</sup> P-0884: [CAR-OTP-2072-1739-R01](#), at 1753, l.484.

<sup>281</sup> See Confirmation Decision, para.164. See below, paras.258-271.

<sup>282</sup> [CAR-OTP-2025-0380](#), at 0384-0385; [CAR-OTP-2006-1210](#), at 1213; P-0884: [CAR-OTP-2072-1739](#), at 1754-1757, l.490-609; [CAR-OTP-2087-2813](#), from [00:14:14] to [00:14:24] and its transcript [CAR-OTP-2107-1589](#), at 1594, l.183-185; [CAR-OTP-2124-0512](#), at 0512; P-2232: [CAR-OTP-2100-2569-R01](#), at 2581, para.63; [CAR-OTP-2109-0110](#), at 0110; [CAR-OTP-2030-0193](#), at 0193; [CAR-OTP-2101-4059](#), at 4060-4061; [CAR-OTP-2035-0061](#), at 0061-0063; [CAR-OTP-2104-0340-R01](#), at 0344; P-0801: [CAR-OTP-2074-2159-R01](#), at 2165, l.172-202; P-0808: [CAR-OTP-2025-0324-R03](#), at 0338, paras.93-94; P-0889: [CAR-OTP-2027-2290-R01](#), at 2292, para.13. Upon his death, BEJOUANE was replaced by FEISSONA: P-0446: [CAR-OTP-2059-1523-R01](#), at 1533-1534, l.375-392, [CAR-OTP-2059-1567-R01](#), at 1575-1577, l.289-349.

formally appointed chiefs of discrete Anti-Balaka groups and areas as ComZones, including through appointment orders he signed.<sup>283</sup>

121. In addition, new ComZones were appointed to deal with particular threats, or when new areas were brought under the Anti-Balaka's control.<sup>284</sup>

122. ComZones controlled specific areas. In the provinces, these typically comprised municipalities or larger areas. In BANGUI they were narrower, encompassing various districts ("arrondissements"), neighbourhoods, or even parts thereof.<sup>285</sup> Upon NGAISSONA's instruction, ComZones in the provinces mirrored the National Coordination's structure in their areas of control, comprising a local 'Committee', Coordinator, Deputy Coordinator, and sometimes a Spokesperson and Secretary.<sup>286</sup>

123. In BANGUI and in the provinces, especially in larger areas, some ComZones had deputies,<sup>287</sup> several ComZones were accountable to one local Coordinator,<sup>288</sup> a 'Zone Coordinator',<sup>289</sup> or 'Coordinator of the Prefecture',<sup>290</sup> or directly to NGAISSONA or MOKOM.<sup>291</sup>

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<sup>283</sup> See below, para.259.

<sup>284</sup> See below, para.262. See also **P-1521**: [CAR-OTP-2046-0603-R01](#), at 0619, para.97; **P-1647**: [CAR-OTP-2050-0654-R02](#), at 0662, para.52; **P-1962**: [CAR-OTP-2068-0037-R02](#), at 0054, paras.80-82.

<sup>285</sup> [CAR-OTP-2025-0372](#), at 0376-0377; [CAR-OTP-2030-0232](#), at 0232-0238; **P-0884**: [CAR-OTP-2072-1739-R01](#), at 1760-1762, l.727-789; **P-0966**: [CAR-OTP-2031-0241-R01](#), at 0254, para.74; **P-2012**: [CAR-OTP-2091-0127-R01](#), at 0141, para.68; **P-1074**: [CAR-OTP-2094-0228-R02](#), at 0242, para.78.

<sup>286</sup> **P-0884**: [CAR-OTP-2072-1739-R01](#), at 1760-1761, l.702-749; **P-0966**: [CAR-OTP-2031-0241-R01](#), at 0254, para.74; **P-1521**: [CAR-OTP-2046-0603-R01](#), at 0619, paras.95-96; **P-1962**: [CAR-OTP-2068-0037-R02](#), at 0060, para.111, [CAR-OTP-2071-0093](#), at 0148; **P-0965**: [CAR-OTP-2046-0134-R01](#), at 0144-0145, l.369-396.

<sup>287</sup> **P-0808**: [CAR-OTP-2025-0324-R03](#), at 0340, para.105; **P-0954**: [CAR-OTP-2048-0171-R02](#), at 0180, para.50; **P-1647**: [CAR-OTP-2050-0654-R02](#), at 0660, para.43; **P-2269**: [CAR-OTP-2111-0336-R01](#), at 0356, paras.150-151; [CAR-OTP-2001-5386](#), at 5467.

<sup>288</sup> **P-1962**: [CAR-OTP-2068-0037-R02](#), at 0054, paras.80-83.

<sup>289</sup> [CAR-OTP-2025-0380](#), at 0384-0385; **P-0884**: [CAR-OTP-2072-1739](#), at 1754-1757, l.490-609.

<sup>290</sup> After July 2014, the person managing the ComZones in a certain region was also referred to as the "Coordinator of the Prefecture": **P-1521**: [CAR-OTP-2046-0603-R01](#), at 0619, paras.96-97; [CAR-OTP-2046-0631](#).

<sup>291</sup> See below, paras.265, 292.

124. ComZones organised and commanded their respective groups of Anti-Balaka elements: they gave orders,<sup>292</sup> distributed weapons,<sup>293</sup> organised roll calls,<sup>294</sup> controlled their movements, and regulated telephone communication.<sup>295</sup> FACA members in Anti-Balaka leadership positions often organised their groups in a military-like structure.<sup>296</sup>

125. By 11 February 2014, the Anti-Balaka comprised at least 50,000 elements<sup>297</sup> — according to **NGAISSONA**, he controlled as many as 70,000.<sup>298</sup> Around BANGUI, approximately 22 ComZones led around 10,000 elements across 8 neighbourhoods or municipalities.<sup>299</sup> Some 40,000 or more were deployed in the provinces and led by between 80 and 110 ComZones.<sup>300</sup>

b) *Coordination and reporting*

126. After the January 2014 meeting on **NGAISSONA**'s return to BANGUI,<sup>301</sup> he held another key-meeting on 6 February 2014. ComZones from BANGUI and the provinces were present, as were MOKOM<sup>302</sup> and Bernard MOKOM.<sup>303</sup> The ComZones agreed to provide MOKOM with reports, including on the number of their elements and weapons.

<sup>292</sup> **P-0876**: [CAR-OTP-2046-0324-R01](#), at 0325-0326, l.9-54; **P-1786**: [CAR-OTP-2058-0200-R01](#), at 0205, paras.26-27; **P-1647**: [CAR-OTP-2050-0654-R02](#), at 0664, para.66; **P-1042**: [CAR-OTP-2107-0297-R01](#), at 0310-0311, l.443-450.

<sup>293</sup> **P-1042**: [CAR-OTP-2107-0330-R01](#), at 0343, l.412-436; **P-0889**: [CAR-OTP-2027-2290-R01](#), at 2302, para.75.

<sup>294</sup> **P-1839**: [CAR-OTP-2072-0789-R01](#), at 0803, l.475-519; [CAR-OTP-2065-3929](#), from [00:00:00] to [00:01:35] [transcript and/or translation request pending with LSU]; **P-0808**: [CAR-OTP-2025-0324-R03](#), at 0340, para.105; **P-0966**: [CAR-OTP-2031-0241-R01](#), at 0247, para.36.

<sup>295</sup> [CAR-OTP-2065-3208](#), from [00:00:00] to [00:03:48] [transcript and/or translation pending with LSU]; [CAR-OTP-2012-0523](#), from [00:36:20] to [00:37:00] and its transcript [CAR-OTP-2072-0558](#), at 0577\_07-0577\_08, l.900-917.

<sup>296</sup> FACA members who joined the Anti-Balaka: [REDACTED].

Military structure of various Anti-Balaka groups: [CAR-OTP-2068-0123](#); [CAR-OTP-2001-5365](#); [CAR-OTP-2041-0783](#); [CAR-OTP-2076-1083](#), from [00:25:00] to [00:25:19] and its transcript [CAR-OTP-2087-8960](#), at 8974, l.481-489.

<sup>297</sup> [CAR-OTP-2025-0372](#), at 0375; [CAR-OTP-2025-0362](#), at 0365; [CAR-OTP-0080-0818](#), at 0818; **P-0966**: [CAR-OTP-2031-0241-R01](#), at 0246, para.29; **P-0808**: [CAR-OTP-2025-0324-R03](#), at 0340, para.105; [CAR-OTP-2023-1812](#), from [00:15:50] to [00:22:29] and its transcript and translation [CAR-OTP-2107-2960](#), [CAR-OTP-2107-2962](#), at 2996-2968, l.104-198; [CAR-OTP-2076-1083](#), from [00:17:35] to [00:17:48] and its transcript [CAR-OTP-2087-8960](#), at 8969, l.314-324.

<sup>298</sup> [CAR-OTP-2109-0098](#), at 0099; [CAR-OTP-2105-0086](#); [CAR-OTP-2001-5026](#); [CAR-OTP-2113-0430](#), at 0431; [CAR-OTP-2109-0110](#), at 0110; **P-2432**: [CAR-OTP-2117-0645-R01](#), at 0653, para.44; [CAR-OTP-2073-0870](#), from [00:04:32] to [00:05:00] and its transcript [CAR-OTP-2107-1561](#), at 1563, l.60-66.

<sup>299</sup> [CAR-OTP-2025-0372](#), at 0376-0377; [CAR-OTP-2025-0362](#), at 0366-0367.

<sup>300</sup> [CAR-OTP-2030-0232](#); **P-0889**: [CAR-OTP-2027-2290-R01](#), at 2303, 2306, paras.82, 100; [CAR-OTP-2030-0445](#), at 0446-0454; **P-1521**: [CAR-OTP-2046-0603-R01](#), at 0619, para.97.

<sup>301</sup> See above, para.118.

<sup>302</sup> **P-2232**: [CAR-OTP-2100-2569-R01](#), at 2580-2581, paras.60-64; **P-0889**: [CAR-OTP-2027-2290-R01](#), at 2299, paras.54-55; **P-1847**: [CAR-OTP-2061-1534-R01](#), at 1565-1566, paras.197-199, 202.

<sup>303</sup> **P-0889**: [CAR-OTP-2027-2290-R01](#), at 2299, para.55.

At the meeting, **NGAISSONA** gave the ComZones money for food and transportation, and promised them more money in the future when it became available.<sup>304</sup>

127. From then on **NGAISSONA** met with, or contacted Bernard MOKOM and MOKOM almost daily.<sup>305</sup> He also regularly invited ComZones from BANGUI and from the provinces to National Coordination meetings.<sup>306</sup>

128. ComZones reported to **NGAISSONA** as the National General Coordinator,<sup>307</sup> or to MOKOM as National Coordinator for Operations.<sup>308</sup> When **NGAISSONA** or MOKOM could not be reached, ComZones reported to other members of the National Coordination, including to the group's Chief of Staff, its Secretary General or others, such as Secretary Judicaël OROFE who did, and were obliged, promptly to pass on the information to **NGAISSONA** or MOKOM.<sup>309</sup>

129. As National General Coordinator, **NGAISSONA** gave direct instructions to ComZones in the field, or instructed them through MOKOM and others, on launching operations or attacks, to creating 'disturbances' and erecting roadblocks.<sup>310</sup>

130. As they undertook to do, ComZones kept the National Coordination abreast of the events on the ground in their areas of responsibility, including on operations, casualties, and the state and number of elements under their control.<sup>311</sup> At the same time, the National

<sup>304</sup> **P-2232**: [CAR-OTP-2090-0561-R03](#), at 0577-0580, paras.102-147.

<sup>305</sup> [REDACTED]. CDR show that **NGAISSONA** ([REDACTED]) communicated with MOKOM ([REDACTED]) from 12 February to 15 October 2014: [CAR-OTP-2008-0483](#); [CAR-OTP-2019-2839](#); [CAR-OTP-2019-1364](#); [CAR-OTP-2054-1481](#); [CAR-OTP-2054-1482](#); [CAR-OTP-2068-0034](#). For the attributions of the relevant telephone numbers, see Annex D.

<sup>306</sup> See below, para.263.

<sup>307</sup> See below, para.265.

<sup>308</sup> **P-1521**: [CAR-OTP-2046-0603-R01](#), at 0615-0616, 0618-0619, paras.77, 89, 96; **P-0808**: [CAR-OTP-2025-0324-R03](#), at 0338, para.93; [CAR-OTP-2093-0010-R01](#), at 0029-0030, paras.105-106, 114; **P-1719**: [CAR-OTP-2062-0039-R02](#), at 0054, 0060, paras.92, 135; **P-0966**: [CAR-OTP-2031-0241-R01](#), at 0260, para.107; **P-0446**: [CAR-OTP-2059-1433-R01](#), at 1445, 1.465-473.

<sup>309</sup> **P-1521**: [CAR-OTP-2046-0603-R01](#), at 0616, para.80, [CAR-OTP-2046-0630](#); **P-0446**: [CAR-OTP-2059-1567-R01](#), at 1575-1576, 1.275-313; **P-2232**: [CAR-OTP-2100-2569-R01](#), at 2582-2585, paras.67-68, 72-74, 78-81, 87; **P-0808**: [CAR-OTP-2093-0010-R01](#), at 0030, para.114.

<sup>310</sup> See below, paras.263, 281-286.

<sup>311</sup> **P-1962**: [CAR-OTP-2068-0037-R02](#), at 0054, para.80; **P-1847**: [CAR-OTP-2061-1534-R01](#), at 1556-1557, para.144; **P-0966**: [CAR-OTP-2031-0241-R01](#), at 0246, para.29; **P-2232**: [CAR-OTP-2100-2569-R01](#), at 2588, paras.111-112.

Coordination, in particular **NGAISSONA** and **MOKOM** sent missions to the provinces to check what was going on.<sup>312</sup>

131. ComZones reported to local Coordinators or Coordinators of the Prefectures,<sup>313</sup> and BANGUI ComZones and Coordinators were in contact with their provincial counterparts.<sup>314</sup> They informed one another of enemy positions, and they assisted each other, *inter alia*, by providing reinforcements in attacks.<sup>315</sup> As necessary, the National Coordination also assessed when to send reinforcements from BANGUI to the provinces.<sup>316</sup>

c) *Discipline, the Police Militaire and 'Fake' Anti-Balaka*

132. ComZones had the authority to discipline and punish recalcitrant elements which varied according to the offences involved.<sup>317</sup> Some ComZones would kill<sup>318</sup> and/or

<sup>312</sup> **P-1858**: [CAR-OTP-2063-0050-R01](#), at 0068, para.112; **P-1521**: [CAR-OTP-2046-0603-R01](#), at 0618, para.89; [CAR-OTP-2012-0811](#), at 0822; [CAR-OTP-2025-0356](#), at 0356-0360; [CAR-OTP-2029-0171](#); [CAR-OTP-2003-1076](#), at 1140; [CAR-OTP-2001-5386](#), at 5405, para.69; **P-0808**: [CAR-OTP-2093-0010-R01](#), at 0026, 0029, paras.87-89, 108.

<sup>313</sup> **P-1962**: [CAR-OTP-2068-0037-R02](#), at 0054, paras.80-82.

<sup>314</sup> **P-0808**: [CAR-OTP-2025-0324-R03](#), at 0340, para.105; **P-1962**: [CAR-OTP-2068-0037-R02](#), at 0059, 0061, paras.107, 117; **P-0446**: [CAR-OTP-2059-1567-R01](#), at 1569-1570, l.70-114.

<sup>315</sup> **P-1719**: [CAR-OTP-2062-0039-R02](#), at 0050, para.67; **P-2602**: [CAR-OTP-2118-9545-R01](#), at 9549, l.107-131.

<sup>316</sup> **P-1521**: [CAR-OTP-2046-0603-R01](#), at 0616-0617, 0620, paras.83, 101; **P-2328**: [CAR-OTP-2099-0165-R01](#), at 0178, paras.65-66.

<sup>317</sup> **P-0966**: [CAR-OTP-2031-0241-R01](#), at 0247, 0255, paras.35, 79; **P-1962**: [CAR-OTP-2068-0037-R02](#), at 0060-0061, para.114; **P-1647**: [CAR-OTP-2050-0654-R02](#), at 0660, 0663, paras.40, 61; **P-0446**: [CAR-OTP-2059-1602-R01](#), at 1616, l.518-535; **P-0884**: [CAR-OTP-2072-1739-R01](#), at 1763-1764, l.830-847; [CAR-OTP-2065-2173](#), from [00:00:00] to [00:02:14] and its transcript and translation [CAR-OTP-2127-3722](#) and [CAR-OTP-2127-3619](#), at 3621-3622, l.4-57; [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, l.6-86; [CAR-OTP-2065-2185](#), from [00:00:00] to [00:02:59] and its transcript and translation [CAR-OTP-2127-3728](#) and [CAR-OTP-2127-3628](#), at 3630-3631, l.1-47; [CAR-OTP-2065-4906](#), from [00:00:00] to [00:00:11] [transcript and translation pending with LSU]; [CAR-OTP-2065-4942](#) [transcript and translation pending with LSU]; [CAR-OTP-2065-4954](#), from [00:00:00] to [00:03:50] [transcript and translation pending with LSU]; [CAR-OTP-2065-4958](#), from [00:00:00] to [00:02:49] and its transcript and translation [CAR-OTP-2127-4495](#) and [CAR-OTP-2127-4580](#); [CAR-OTP-2065-4966](#), from [00:00:00] to [00:01:47] and its transcript and translation [CAR-OTP-2127-4497](#) and [CAR-OTP-2127-4583](#), at 4585, l.3-12; [CAR-OTP-2065-5264](#), from [00:00:00] to [00:01:39] and its transcript and translation [CAR-OTP-2107-3121](#), [CAR-OTP-2118-5694](#), at 5696-5697.

<sup>318</sup> **P-1339**: [CAR-OTP-2041-0741-R01](#), at 0749, paras.54-56; **P-1647**: [CAR-OTP-2050-0654-R02](#), at 0662, paras.53-56; **P-0487**: [CAR-OTP-2076-0253-R01](#), 0257, l.121-141; **P-1786**: [CAR-OTP-2058-0200-R01](#), at 0205, para.28; **P-0966**: [CAR-OTP-2031-0241-R01](#), at 0256, para.84; **P-1521**: [CAR-OTP-2046-0603-R01](#), at 0617, para.88; **P-1858**: [CAR-OTP-2063-0050-R01](#), 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](#); [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](#); **P-1819**: [CAR-OTP-2065-0003-R01](#), at 0031, para.162, [CAR-OTP-2065-4946](#), from [00:00:00] to [00:03:55] [transcript and translation pending with LSU].

torture/beat their elements,<sup>319</sup> or turn them over to the *gendarmerie*.<sup>320</sup> In turn, the National Coordination replaced ComZones as a disciplinary measure,<sup>321</sup> and warned ComZones that they would be held accountable for causing ‘trouble’.<sup>322</sup>

133. Around February 2014, the National Coordination created a military police unit (“*Police Militaire*” or “PM”) subordinated to Operations Coordinator MOKOM. Only becoming operational in May 2014, the PM was supposedly set up to find and arrest so-called ‘fake’ Anti-Balaka committing crimes in BANGUI and in the Provinces.<sup>323</sup> However, **NGAISSONA** appointed well-known Anti-Balaka criminals to positions in the PM, such as ANDJILO<sup>324</sup> who he assigned to PM operational missions as ‘*chef de mission*’. Further, the PM’s commission of crimes itself contributed to a climate of insecurity and impunity within the Anti-Balaka.<sup>325</sup>

<sup>319</sup> **P-0965**: [CAR-OTP-2046-0195-R01](#), at 0210-0211, l.533-555; **P-1839**: [CAR-OTP-2122-6861-R01](#) at 6870, l.273-285; **P-0974**: [CAR-OTP-2058-0165-R01](#), at 0174, para.60; **P-1786**: [CAR-OTP-2058-0200-R01](#), at 0205, paras.29-30; **P-1962**: [CAR-OTP-2068-0037-R02](#), at 0060-0061, paras.113-114; **P-0966**: [CAR-OTP-2031-0241-R01](#), at 0247, 0255, paras.35, 79; **P-1339**: [CAR-OTP-2041-0741-R01](#), at 0750, para.62; **P-1647**: [CAR-OTP-2050-0654-R02](#), at 0660, para.40; **P-0446**: [CAR-OTP-2059-1567-R01](#), at 1570, l.86-95.

<sup>320</sup> **P-1521**: [CAR-OTP-2046-0603-R01](#), at 0617, para.85; **P-1962**: [CAR-OTP-2068-0037-R02](#), at 0060-0061, paras.113-114; **P-0884**: [CAR-OTP-2072-1582-R01](#), at 1595-1599, l.437-582; **P-0446**: [CAR-OTP-2059-1602-R01](#), at 1605-1607, l.116-199; [CAR-OTP-2003-1076](#), at 1093; [CAR-OTP-2030-0255](#), at 0257.

<sup>321</sup> **P-0884**: [CAR-OTP-2072-1739-R01](#), at 1766, l.911-943; **P-0801**: [CAR-OTP-2074-2369-R01](#), at 2379-2380, l.317-375; **P-0458**: [CAR-OTP-2118-2514-R01](#), at 2544-2546, l.995-1082, [CAR-OTP-2118-5322-R01](#), at 5343, l.700-728; [CAR-OTP-2003-1160](#), at 1222.

<sup>322</sup> **P-2232**: [CAR-OTP-2100-2569-R01](#), at 2591-2592, para.132.

<sup>323</sup> **P-0808**: [CAR-OTP-2025-0324-R03](#), at 0338, para.95, [CAR-OTP-2093-0010-R01](#), at 0024-0025, 0033, paras.78, 129; **P-0446**: [CAR-OTP-2059-1586-R01](#), at 1597, 1599-1600, l.434-451, 509-566, [CAR-OTP-2059-1602-R01](#), at 1603-1604, l.18-68, [CAR-OTP-2059-1626-R01](#), at 1634-1636, l.296-376, [CAR-OTP-2025-0356](#), at 0356-0360; **P-1521**: [CAR-OTP-2046-0603-R01](#), at 0617, paras.85-86; **P-2232**: [CAR-OTP-2090-0561-R03](#), at 0590, 0596-0597, paras.220, 269-270; **P-0966**: [CAR-OTP-2031-0241-R01](#), at 0256, paras.86-87; **P-0888**: [CAR-OTP-2031-0217-R01](#), at 0226, paras.56-58; **P-2012**: [CAR-OTP-2091-0127-R01](#), at 0134, para.32; [CAR-OTP-2076-0825](#), from [00:02:40] to [00:03:47] and its transcript [CAR-OTP-2122-7403](#); [CAR-OTP-2076-1082](#), from [00:11:50] to [00:12:04] and its transcript [CAR-OTP-2087-8944](#), at 8950, l.188-191.

<sup>324</sup> Regarding ANDJILO’s criminal character: *see below*, paras.173, 181.

<sup>325</sup> **P-0446**: [CAR-OTP-2059-1602-R01](#), at 1605, l.79-111, [CAR-OTP-2059-1626-R01](#), at 1635-1637, l.328-409, [CAR-OTP-2025-0356](#), at 0359-0360; **P-2232**: [CAR-OTP-2100-2569-R01](#), at 2587, para.98; **P-0808**: [CAR-OTP-2025-0324-R03](#), at 0338, para.95.

134. Similarly, while ComZones of certain provincial villages set up local police units,<sup>326</sup> these police units were equally committing crimes.<sup>327</sup> Moreover, Anti-Balaka crimes against Muslim civilians went unpunished.<sup>328</sup>

135. As National Coordinator, **NGAISSONA** persistently denied the Anti-Balaka's responsibility for attacks on Muslims, publicly blaming so-called 'fake' Anti-Balaka for the crimes.<sup>329</sup> **NGAISSONA** also accepted within the group's ranks ComZones like **ANDJILO**, **LEBENE**, and other Anti-Balaka chiefs such as Gilbert **WILITE** (aka "8", "8-8", "huit", or "WITTE")<sup>330</sup> who were notoriously violent against Muslims.<sup>331</sup>

136. Given the express acknowledgment by key members of the National Coordination of the Anti-Balaka's involvement in the commission of crimes,<sup>332</sup> and that:

*“même s'il est vrai que dans le rang dudit mouvement [Anti-Balaka], des enquêtes doivent être diligentées pour déterminer les responsables des éventuelles exactions”*<sup>333</sup>

<sup>326</sup> [REDACTED].

<sup>327</sup> [REDACTED].

<sup>328</sup> **P-0965**: [CAR-OTP-2046-0195-R01](#), at 0211, l.556-578; **P-1719**: [CAR-OTP-2062-0039-R02](#), at 0051, para.74; **P-2232**: [CAR-OTP-2100-2569-R01](#), at 2575, paras.30-31.

<sup>329</sup> **P-2012**: [CAR-OTP-2091-0127-R01](#), at 0134-0135, para.32, 37; **P-2432**: [CAR-OTP-2117-0645-R01](#), at 0650, para.26; [CAR-OTP-2117-0678](#), at 0679; [CAR-OTP-2066-2466](#), at 2488; [CAR-OTP-2023-2919](#), from [00:04:55] to [00:09:58] and its transcript [CAR-OTP-2107-1516](#), at 1517-1518, l.35-88; [CAR-OTP-2003-1076](#), at 1103; [CAR-OTP-2023-2931](#) and its transcript and translation [CAR-OTP-2107-2971](#), [CAR-OTP-2118-5606](#), at 5608, l.38-40.

<sup>330</sup> Regarding the prominent role of **ANDJILO** and **LEBENE** in the Anti-Balaka see [CAR-OTP-2025-0372](#), at 0376 (**ANDJILO** and **LEBENE** are listed as Comzone); [CAR-OTP-2025-0362](#), at 0366 (**ANDJILO** and **LEBENE** are listed as Comzone); [CAR-OTP-2025-0380](#), at 0384 (**LEBENE** is listed as Comzone); [CAR-OTP-2006-1210](#), at 1213 (**LEBENE** is listed as Comzone); [CAR-OTP-2101-4059](#), at 4060-4061 (**ANDJILO** and **LEBENE** are listed as Comzones); [CAR-OTP-2035-0061](#), at 0062 (**ANDJILO** and **LEBENE** are listed as Comzone); [CAR-OTP-2008-0747](#) (**LEBENE** going to **BRAZZAVILLE**). For the role of **WITTE** see [REDACTED].

<sup>331</sup> Regarding **ANDJILO**'s criminal character see **P-0314**: [CAR-OTP-2008-1188-R01](#), at 1212; **P-0487**: [CAR-OTP-2076-0146-R01](#), at 0161, l.538-546; **P-1962**: [CAR-OTP-2068-0037-R02](#), at 0050, para.60; **P-0808**: [CAR-OTP-2093-0010-R01](#), at 0019, para.48; **P-1074**: [CAR-OTP-2094-0228-R02](#), at 0242, para.80; [CAR-OTP-2088-1179](#), at 1179; [CAR-OTP-2003-1654](#), at 1671, 1678, 1739, 1758, 1813; [CAR-OTP-2030-0988](#), at 0988-0990; [CAR-OTP-2032-0179](#), at 0179-0506; [CAR-OTP-2030-0431](#), at 0431. Regarding **LEBENE**'s criminal character see **P-1530**: [CAR-OTP-2054-0249-R01](#), at 0256-0257, paras.33-36; [CAR-OTP-2088-1179](#), at 1189. Regarding **WITTE**'s criminal character see **P-2232**: [CAR-OTP-2100-2569-R01](#), at 2591, para.130.

<sup>332</sup> [CAR-OTP-2025-0372](#), at 0374; [CAR-OTP-2025-0380](#), at 0381; [CAR-OTP-2006-1210](#), at 1211. See also below, para.308.

<sup>333</sup> [CAR-OTP-2025-0380](#), at 0383; [CAR-OTP-2006-1210](#), at 1212.

137. **NGAISSONA**'s persistent claims that atrocities against Muslims attributed to the Anti-Balaka were committed by 'fakes' as described further below, promoted and encouraged the group's organisational Criminal Policy and Common Purpose.

d) *Money, support, and weapons*

Money and Support

138. The Anti-Balaka received money from a number of sources: (i) **NGAISSONA**;<sup>334</sup> (ii) illegal tolls extorted at among other places, river crossings and roadblocks along several axes and waterways throughout western CAR;<sup>335</sup> (iii) contributions from the local population, including businessmen;<sup>336</sup> (iv) extortion from the Muslim population in exchange for "protection";<sup>337</sup> (v) stealing and ransoming;<sup>338</sup> and (vi) salaries of deserting military elements.<sup>339</sup>

139. **NGAISSONA** distributed money to ComZones in BANGUI and the provinces for their support, including to pay for food, accommodation, burial expenses and other expenditures.<sup>340</sup>

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<sup>334</sup> See below, paras.272-279.

See also **P-1193**: [CAR-OTP-2045-0048-R02](#), at 0056, para.51; **P-1521**: [CAR-OTP-2046-0603-R01](#), at 0615, para.74; **P-0291**: [CAR-OTP-2024-0036-R03](#), at 0055, para.118, [CAR-OTP-2024-0062](#); **P-0801**: [CAR-OTP-2074-2335-R01](#), at 2361, l.862-880, [CAR-OTP-2074-2369-R01](#), at 2382, l.439-445, [CAR-OTP-2074-2643-R02](#), at 2680-2681, l.1236-1239, 1278-1287; [CAR-OTP-2033-8065](#), at 8068; [CAR-OTP-2101-0348](#), at 0349.

<sup>335</sup> **P-1719**: [CAR-OTP-2062-0039-R02](#), at 0048-0049, paras.56, 62; **P-1647**: [CAR-OTP-2050-0654-R02](#), at 0665, paras.78-79; **P-1839**: [CAR-OTP-2072-0914-R01](#), at 0929, 0931-0932, l.510-542, 600-626, [CAR-OTP-2072-1068-R01](#), at 1078-1079, l.344-383.

<sup>336</sup> **P-1962**: [CAR-OTP-2068-0037-R02](#), at 0056, para.92; **P-0965**: [CAR-OTP-2046-0150-R01](#), at 0158, l.272-291; **P-0808**: [CAR-OTP-2093-0010-R01](#), at 0018, paras.42-43; **P-2012**: [CAR-OTP-2091-0127-R01](#), at 0134, para.31; **P-1847**: [CAR-OTP-2061-1534-R01](#), at 1550-1554, paras.107-108, 119-120, 128-130; [CAR-OTP-2051-0479](#), at 0626-0627.

<sup>337</sup> See e.g. **P-0966**: [CAR-OTP-2031-0241-R01](#), at 0254-0255, paras.76, 78.

<sup>338</sup> **P-2232**: [CAR-OTP-2100-2569-R01](#), at 2586-2587, para.96, [CAR-OTP-2090-0561-R03](#), at 0598, para.275; [CAR-OTP-2003-1076](#), at 0193, 0195, 1103.

<sup>339</sup> **P-2328**: [CAR-OTP-2099-0165-R01](#), at 0189, para.126.

<sup>340</sup> **P-0992**: [CAR-OTP-2110-0048-R01](#), at 0065-0066, paras.94, 101, [CAR-OTP-2122-6499-R01](#), at 6517-6524, paras.111-114, 122-123, 127, 131-132, 164; **P-0954**: [CAR-OTP-2048-0171-R02](#), at 0189, para.106; **P-0965**: [CAR-OTP-2046-0150-R01](#), at 0157-0158, 0161, l.243-256, 379-413; **P-1193**: [CAR-OTP-2045-0048-R02](#), at 0056, para.51; **P-2232**: [CAR-OTP-2090-0561-R03](#), at 0577, 0579-0580, 0582, 0592-0593, paras.101, 136-137, 142, 146, 160-163, 236; **P-0966**: [CAR-OTP-2031-0241-R01](#), at 0257, para.91; **P-0808**: [CAR-OTP-2093-0010-R01](#), at 0018, 0023, paras.42-44, 71; **P-0884**: [CAR-OTP-2072-1715-R01](#), at 1730-1733, l.535-624, [CAR-OTP-2072-1739-R01](#), at 1740-1751, l.19-420, [CAR-OTP-2072-1814-R01](#), at 1816-1818, 1820, l.52-114, 184-199.

140. **NGAISSONA** and **MOKOM** also promised to reimburse ComZones for expenses incurred for their groups, once the National Coordination took power. They further induced ComZones to advance these expenses, promising them future benefits such as, positions in the military or in the government.<sup>341</sup>

141. ComZones were also promised money to encourage their continuation of the “fight”, as reiterated for example when meeting with **NGAISSONA**, Bernard **MOKOM**, and **MOKOM** on 6 February 2014.<sup>342</sup> The next day, when **MOKOM** visited BOEING Anti-Balaka bases, including **YEKATOM**’s [REDACTED], he reassured the elements – despite the Seleka being gone – that the Anti-Balaka would fight until the end and that they would be rewarded.<sup>343</sup>

142. In financing the Anti-Balaka in this way, **NGAISSONA** was able to influence its members and secure their loyalty.<sup>344</sup>

#### Weapons and ammunition

143. **NGAISSONA** provided money to members of the Anti-Balaka for the purchase of weapons and ammunition to enable them to carry out operations. **MOKOM** and other important Anti-Balaka members did the same.<sup>345</sup>

144. Weapons and ammunition were also made available through different means: (i) seized from defeated Seleka forces<sup>346</sup> or bought from them;<sup>347</sup> (ii) FACA members who

<sup>341</sup> **P-2232**: [CAR-OTP-2100-2569-R01](#), at 2586-2587, 2591-2592, paras.95-96, 132.

<sup>342</sup> [REDACTED].

<sup>343</sup> [REDACTED].

<sup>344</sup> **P-0889**: [CAR-OTP-2034-0463-R01](#), at 0473, para.55; **P-0966**: [CAR-OTP-2031-0241-R01](#), at 0257, para.91; **P-0808**: [CAR-OTP-2093-0010-R01](#), at 0023, para.71.

<sup>345</sup> **P-0965**: [CAR-OTP-2046-0108-R01](#), at 0112, l.130-137, [CAR-OTP-2046-0150-R01](#), at 0161-0612, l.376-407; **P-1074**: [CAR-OTP-2094-0228-R02](#), at 0256, paras.161-162; **P-2232**: [CAR-OTP-2090-0561-R03](#), at 0583, paras.168-169; [CAR-OTP-2100-2569-R01](#), at 2585-2586, paras.88-94; **P-1339**: [CAR-OTP-2041-0741-R01](#), at 0755-0756, paras.101, 103.

<sup>346</sup> **P-2602**: [CAR-OTP-2118-9525-R01](#), at 9538-9540, l.434-501; **P-1521**: [CAR-OTP-2046-0603-R01](#), at 0610-0611, paras.39, 44, 47; **P-0966**: [CAR-OTP-2031-0241-R01](#), at 0244, 0248 paras.18, 41; **P-2012**: [CAR-OTP-2091-0127-R01](#), at 0134, para.31; **P-2138**: [CAR-OTP-2092-4314-R02](#), at 4331-4333, l.637-699; [CAR-OTP-2065-0396](#), from [00:01:15] to [00:01:40] and its transcript [CAR-OTP-2107-6918](#), at 6919, l.27-34.

<sup>347</sup> **P-1962**: [CAR-OTP-2068-0037-R02](#), at 0049, paras.54-55; **P-1339**: [CAR-OTP-2041-0741-R01](#), at 0748, para.48.

brought their own,<sup>348</sup> or through attacks on weapons depots;<sup>349</sup> (iii) delivered to BANGUI from CAMEROON on the request of Anti-Balaka leaders, *inter alia* **NGAISSONA**;<sup>350</sup> or (iv) acquired in ZONGO or in BANGUI, including by or via the National Coordination.<sup>351</sup>

e) *Training*

145. As described above, from around June 2013 onwards, FACA members provided Anti-Balaka elements at GOBERE with rudimentary military training, including on self-defence techniques and weapons use (*i.e.*, hunting rifles, spears, and machetes).<sup>352</sup>

146. Likewise, some Anti-Balaka ComZones organised training for their elements. For instance, **YEKATOM** organised his elements' training at KALANGOI in the use of firearms, machetes, and knives.<sup>353</sup>

147. Anti-Balaka elements were also trained at BOGANGOLO<sup>354</sup> and at the YAMWARA School.<sup>355</sup> Later in 2014, Anti-Balaka training camps were also operational 25 kilometers from BIMON,<sup>356</sup> and in BOUAR.<sup>357</sup>

f) *Group identity*

Armbands, Gris-gris

148. The Anti-Balaka often wore *ad hoc* distinctive accessories, such as armbands and headbands during operations;<sup>358</sup> *vaccinations* and *gris-gris* were also among particular

<sup>348</sup> **P-0808**: [CAR-OTP-2025-0324-R03](#), at 0341, para.111; **P-1962**: [CAR-OTP-2068-0037-R02](#), at 0041, para.11; **P-2328**: [CAR-OTP-2099-0165-R01](#), at 0173-0174, paras.45, 47-48.

<sup>349</sup> **P-0954**: [CAR-OTP-2048-0171-R02](#), at 0184, para.78; [CAR-OTP-2001-5642](#), at 5643; **P-1858**: [CAR-OTP-2063-0050-R01](#), at 0066, para.100.

<sup>350</sup> **P-2328**: [CAR-OTP-2099-0165-R01](#), at 0187-0188, paras.114, 116.

<sup>351</sup> **P-1521**: [CAR-OTP-2046-0603-R01](#), at 0617, para.84; **P-2138**: [CAR-OTP-2092-4004-R01](#), at 4035, l.1114-1128, [CAR-OTP-2092-4036-R01](#), at 4037-4040, l.9-149, [CAR-OTP-2092-4314-R02](#), at 4330-4331, l.559-619; **P-1074**: [CAR-OTP-2094-0228-R02](#), at 0267, para.220. *See also above*, para.85.

<sup>352</sup> *See above*, paras.88, 91.

<sup>353</sup> *See above*, para.88. *See also* [CAR-OTP-2065-2065](#), from [00:00:00] to [00:00:28] and its transcript and translation [CAR-OTP-2127-6218](#) and [CAR-OTP-2127-6327](#).

<sup>354</sup> **P-2328**: [CAR-OTP-2099-0165-R01](#), at 0183, para.93.

<sup>355</sup> At least from the beginning of December 2013 to mid-January 2014. *See below*, para.361.

<sup>356</sup> [CAR-OTP-2003-1654](#), at 1819.

<sup>357</sup> **P-0487**: [CAR-OTP-2076-0130-R01](#), at 0144, l.507-535, [CAR-OTP-2076-0146-R01](#), at 0166, l.714-740.

<sup>358</sup> **P-1339**: [CAR-OTP-2041-0741-R01](#) at 0750-0751, paras.66-67.

identifying group traits.<sup>359</sup> While some marabouts instructed elements that the *gris-gris* would not protect them if they harmed innocent civilians, this did not apply to Muslims.<sup>360</sup>

### ID-cards

149. In addition, from January 2014 onwards, some Anti-Balaka elements were issued ID cards in BANGUI and in the provinces<sup>361</sup> signed by **NGAISSONA** or other senior members of the group, such as **BEJOUANE**.<sup>362</sup> This was ostensibly done for two main reasons: (i) to distinguish real from so-called “fake” members, *i.e.* those falsely claiming to be Anti-Balaka;<sup>363</sup> and (ii) to allow the group to participate in the DDR process.<sup>364</sup> Identification cards contained a number, picture, name, address, and function of the Anti-Balaka member.<sup>365</sup> By July 2014, the National Coordination had issued about 10,000 ID cards.<sup>366</sup>

<sup>359</sup> See above, para.91. See also [CAR-OTP-2003-1076](#), at 1093; [CAR-OTP-2025-0396](#), at 0401; **P-0975**: [CAR-OTP-2033-7885-R02](#), at 7889, para.27; [CAR-OTP-2012-0411](#), from [00:01:32] to [00:01:50] [transcript and/or translation request pending with LSU]; [CAR-OTP-2076-1082](#), from [00:20:18] to [00:22:11] and its transcript [CAR-OTP-2087-8944](#), at 8952-8953, l.300-341; **P-1779**: [CAR-OTP-2087-9894-R01](#), at 9900, para.35.

<sup>360</sup> **P-0808**: [CAR-OTP-2093-0010-R01](#), at 0019, para.46; **P-2138**: [CAR-OTP-2092-3976-R01](#), at 3978-3979, 3981-3982, l.55-100, 174-191, 207-220, [CAR-OTP-2092-4048-R01](#), at 4065, l.612-637, [CAR-OTP-2092-4188-R01](#), at 4219-4220, l.1157-1164, [CAR-OTP-2092-4221-R01](#), at 4249-4250, l.1042-1068; [CAR-OTP-2084-1267](#), from [00:02:45] to [00:05:13] and its transcript and translation [CAR-OTP-2107-6968](#), at 6970-6972, l.70-118, [CAR-OTP-2107-7111](#), at 7114-7116, l.70-118.

<sup>361</sup> **P-0889**: [CAR-OTP-2027-2290-R01](#), at 2302, para.72-74; **P-0884**: [CAR-OTP-2072-1913-R01](#), at 1922, l.316-368; [CAR-OTP-2012-0411](#), from [00:00:49] to [00:00:53] [transcript and/or translation request pending with LSU]; [CAR-OTP-2076-1083](#), from [00:16:00] to [00:16:44] and from [00:16:58] to [00:17:49] and its transcript [CAR-OTP-2087-8960](#), at 8968-8970, l.274-299, 308-340; **P-2556**: [CAR-OTP-2112-1300-R01](#), at 1308, paras.55, 56, 62. See also pictures of ID cards at [CAR-OTP-2112-1330](#), [CAR-OTP-2112-1332](#), [CAR-OTP-2112-1334](#).

<sup>362</sup> On ID Cards signed by **NGAISSONA** see e.g. [CAR-OTP-2030-0230](#); [CAR-OTP-2076-1083](#), from [00:16:58] to [00:17:49] and its transcript [CAR-OTP-2087-8960](#), at 8969-8970, l.308-340; On ID Cards signed by **Richard BEJOUANE** see e.g. [CAR-OTP-2023-1599](#), from [00:00:00] to [00:00:53] and its transcript [CAR-OTP-2107-1502](#); [CAR-OTP-2076-1275](#); [CAR-OTP-2001-6251](#), at 6301-6302. For the signature of **BEJOUANE** see e.g. [CAR-OTP-2025-0380](#), at 0384.

<sup>363</sup> [CAR-OTP-2003-1010](#), at 1024; **P-0966**: [CAR-OTP-2031-0241-R01](#), at 0257, para.90; **P-0884**: [CAR-OTP-2072-1913-R01](#), at 1922, l.316-368; **P-0446**: [CAR-OTP-2059-1626-R01](#), at 1630, l.138-203; [CAR-OTP-2066-1510](#), at 1534.

<sup>364</sup> **P-0808**: [CAR-OTP-2025-0324-R03](#), at 0341-0342, paras.113-117, [CAR-OTP-2093-0010-R01](#), at 0025, paras.82-84, 86; **P-1193**: [CAR-OTP-2045-0048-R02](#), at 0060, paras.80-81; **P-1521**: [CAR-OTP-2046-0603-R01](#), at 0621, para.105; **P-1962**: [CAR-OTP-2068-0037-R02](#), at 0058, para.101; **P-2012**: [CAR-OTP-2091-0127-R01](#), at 0134, 0137, paras.32, 50, [CAR-OTP-2091-0290](#).

<sup>365</sup> [CAR-OTP-2030-0230](#); [CAR-OTP-2030-0231](#); [CAR-OTP-2001-0835](#), at 0883; [CAR-OTP-2001-6251](#), at 6301; [CAR-OTP-2071-0093](#), at 0113-0116, 0121-0125, 0141.

<sup>366</sup> **P-0889**: [CAR-OTP-2027-2290-R01](#), at 2302, paras.72-74.

## G. WIDESPREAD ATTACK AGAINST THE CIVILIAN POPULATION

### a) *The attack throughout western CAR*

150. Throughout the Relevant Period, the Anti-Balaka carried out a campaign of violence<sup>367</sup> against the Muslim population of western CAR pursuant to, and in furtherance of, its Criminal Policy and Common Purpose. The article 7(1) attack involved serious multiple acts, including the Charged Crimes of murder, deportation and forcible transfer of population, imprisonment and other forms of severe deprivation of physical liberty, torture, rape, persecution and other inhumane acts.<sup>368</sup>

151. Beginning around September 2013, the Anti-Balaka committed such crimes in the lead up to the 5 December 2013 BANGUI Attack in various towns and prefectures in western CAR. These included BOSSANGO and BOUCA in early to mid-September 2013,<sup>369</sup> BELOKO in November 2013,<sup>370</sup> BOUAR on or about 26 October 2013,<sup>371</sup> BOSSEMBELE between the end of October and 5 December 2013,<sup>372</sup> BOALI on or about 2 December 2013,<sup>373</sup> YALOKÉ and GAGA in October 2013.<sup>374</sup> Some of these locations were again attacked on 5 December 2013,<sup>375</sup> and others, shortly thereafter such as BOHONG on or about 12 December 2013.<sup>376</sup>

152. In the aftermath of the 5 December 2013 BANGUI and BOSSANGO attacks, Anti-Balaka crimes increased in frequency, and particularly after DJOTODIA's 10 January 2014 resignation and the Seleka's retreat, as the group sought revenge for Seleka atrocities<sup>377</sup> against on a Muslim population made even more vulnerable by the prior attacks.<sup>378</sup> The Anti-Balaka persisted in its violent targeting of Muslims in western CAR through December 2014, including through the crimes committed by YEKATOM's Group

<sup>367</sup> See article 7(1) (defining "attack").

<sup>368</sup> Confirmation Decision, para.64, pp.106-107 and 109-111.

<sup>369</sup> [CAR-OTP-2001-2769](#), at 2786-2787; **P-0458**: [CAR-OTP-2118-5154-R01](#), at 5170-5171, 1.544-571; **P-0505**: [CAR-OTP-2014-0129-R01](#), at 0133-0134, para.27.

<sup>370</sup> **P-1847**: [CAR-OTP-2061-1534-R01](#), at 1555-1556, paras.136-140, 142.

<sup>371</sup> [CAR-OTP-2001-2769](#), at 2787.

<sup>372</sup> [CAR-OTP-2001-0329](#), at 0338, para.45; **P-2232**: [CAR-OTP-2090-0561-R03](#), at 0574, para.80.

<sup>373</sup> **P-0519**: [CAR-OTP-2016-0652-R01](#), at 0669, para.81; [CAR-OTP-2001-2769](#), at 2788.

<sup>374</sup> Confirmation Decision, para.64; DCC, para.50; [CAR-OTP-2053-0645](#), at 0645; [CAR-OTP-2075-1114](#), at 1115; [CAR-OTP-2075-1127](#), at 1128; [CAR-OTP-2001-4059](#), at 4059; [CAR-OTP-0075-2041](#), at 2051; **P-1779**: [CAR-OTP-2087-9894-R01](#), at 9903, para.52; **P-2546**: [CAR-OTP-2114-0402-R01](#), at 0411, para.34.

<sup>375</sup> **P-2232**: [CAR-OTP-2090-0561-R03](#), at 0574, para.80; **P-2602**: [CAR-OTP-2122-5346-R01](#), at 5348, 1.10-19.

<sup>376</sup> [CAR-OTP-2001-2769](#), at 2788.

<sup>377</sup> See above, para.65.

<sup>378</sup> [CAR-OTP-2055-1987](#), at 2003.

through 28 February 2014, the crimes committed in BOSSANGO, including regarding the enclave there which lasted until April 2014, and the siege laid against Muslim civilians and their serious mistreatment in enclaves into which they were forced in western CAR.

b) *Uncharged acts and crimes*

153. In this period, the Anti-Balaka thus continued to commit multiple violent acts and crimes in, *inter alia*, BOEING, GAGA, ZAWA, YALOE, BERBERATI, CARNOT, GUEN, BODA, BOSSEMPTELE.<sup>379</sup> As shown below, the acts and crimes committed in these locations involved a large number of victims and a large geographical area. They were perpetrated in a consistent and regular pattern of criminality, pursuant to the Anti-Balaka's organisational Criminal Policy and Common Purpose, and over a long period given the continuing nature of some of the acts involved, particularly regarding the Muslim enclaves.<sup>380</sup> Most lasted through the end of the Relevant Period, and well beyond. This campaign of violent crimes and mistreatment of the Muslim population in western CAR by the Anti-Balaka, both charged and uncharged<sup>381</sup> constitute the article 7(1) attack, as confirmed.<sup>382</sup>

i. *GAGA, ZAWA, YALOE - 17 January 2014*

154. After the Seleka's withdrawal, on or about 17 January 2014, an Anti-Balaka group began its attack on Muslim civilians in GAGA, ZAWA, and YALOE, led by Séverin NDOGUIA (aka "Le Bleu") and Richard BOZANDO (aka "Colonel Richard") ("YALOE group").<sup>383</sup> Beginning with GAGA, in which several Muslim civilians were killed,<sup>384</sup> the YALOE group continued on to ZAWA on or about 20 January 2014, killing more, and forcing others to flee to neighbouring towns.<sup>385</sup> From there, they moved on to

<sup>379</sup> See Confirmation Decision, para.64 and pp.111, 109; DCC, paras.90-114.

<sup>380</sup> [CAR-OTP-2001-2769](#), at 2778-2779.

<sup>381</sup> See [Ntaganda CD](#), para.23.

<sup>382</sup> See Confirmation Decision, para.64 and paras.107, 111.

<sup>383</sup> [CAR-OTP-2088-1179](#), at 1193; [CAR-OTP-2030-0232](#), at 0234; [CAR-OTP-2030-0445](#), at 0446; **P-2232**: [CAR-OTP-2100-2569-R01](#), at 2578, 2590, paras.47-48, 119; **P-0884**: [CAR-OTP-2072-1881-R01](#), at 1905-1907, 1.856-919; **P-1847**: [CAR-OTP-2061-1534-R01](#), at 1569, para.222; **P-1719**: [CAR-OTP-2062-0039-R02](#), at 0061, para.140; **P-0446**: [CAR-OTP-2105-0376-R01](#), at 0393-0394, 1.562-610; **P-1779**: [CAR-OTP-2087-9894-R01](#), at 9900-9901, paras.37-38, 41; **P-2486**: [CAR-OTP-2116-0281-R01](#), at 0289-0290, 0294, paras.33-34; [CAR-OTP-2053-0645](#), at 0645; [CAR-OTP-2001-5305](#), at 5323-5325.

<sup>384</sup> **P-1779**: [CAR-OTP-2087-9894-R01](#), at 9897, 9903, 9906-9907, paras.20-21, 54, 70, 73, 75-77.

<sup>385</sup> [CAR-OTP-2088-1375](#), at 1381; [CAR-OTP-2001-7017](#), at 7093; **P-2416**: [CAR-OTP-2106-0489-R01](#), at 0507, para.52; **P-1779**: [CAR-OTP-2087-9894-R01](#), at 9908, paras.81-83.

YALoke, erecting roadblocks throughout the town, preventing Muslim civilians from leaving.<sup>386</sup>

155. On 22 January 2014, following failed mediation attempts by French forces (“Operation Sangaris” or “Sangaris”) between Muslim community representatives and the Anti-Balaka,<sup>387</sup> the latter began its attack of YALoke’s Muslim civilian population.<sup>388</sup> Several Muslim civilians were killed and injured,<sup>389</sup> and a young Muslim girl raped.<sup>390</sup> Muslim houses and shops were systematically pillaged,<sup>391</sup> and their property burned in the *quartier ARABE*.<sup>392</sup>

156. The YALoke group’s attack on Muslim civilians in GAGA, ZAWA and YALoke forced them to seek refuge, including at the Central Mosque and the compound of the *Chef de Groupe ZIZIWA*, where they remained under siege.<sup>393</sup> Following several ultimatums issued by the YALoke group,<sup>394</sup> they were evacuated by MISCA and Chadian forces mainly to CAMEROON and CHAD. About 2,000 were evacuated around 2 February 2014, and 1,600 around 4 February 2014.<sup>395</sup> Although the last convoy left YALoke around 22

<sup>386</sup> P-2416: [CAR-OTP-2106-0489-R01](#), at 0505, para.46.

<sup>387</sup> P-2416: [CAR-OTP-2106-0489-R01](#), at 0506-0508, 0510, paras.50-51 53-55, 61; [CAR-OTP-2106-0139](#), from [00:00:00] to [00:00:56] and its transcript [CAR-OTP-2107-4219](#), at 4220-4221, l.1-6, 39-42.

<sup>388</sup> P-2416: [CAR-OTP-2106-0489-R01](#), at 0508, para.55; [CAR-OTP-2088-1179](#), at 1193; [CAR-OTP-2001-7017](#), at 7096, para.346; [CAR-OTP-2106-0684](#), from [00:00:00] to [00:04:47], and its transcript and translation [CAR-OTP-2118-0015](#) and [CAR-OTP-2125-0525](#), at 0528-0529, 0530, l.45-52, 81-90, 103-110.

<sup>389</sup> [CAR-OTP-2001-7017](#), at 7096, para.347; [CAR-OTP-2088-1230-R01](#), at 1321; P-2416: [CAR-OTP-2106-0489-R01](#), at 0508-0509, 0513, paras.56-58, 69-71.

<sup>390</sup> [REDACTED].

<sup>391</sup> P-1577: [CAR-OTP-2081-0769-R01](#), at 0813-0814; [CAR-OTP-2085-8235](#); [CAR-OTP-2085-8275](#); [CAR-OTP-2085-8285](#); [CAR-OTP-2085-8345](#); [CAR-OTP-2001-7017](#), at 7104; P-2416: [CAR-OTP-2106-0489-R01](#), at 0517-0519, 0540, paras.83-84, 86-89, 91, 129; [CAR-OTP-2106-0569-R01](#); P-1847: [CAR-OTP-2061-1534-R01](#), at 1569, para.222.

<sup>392</sup> P-2416: [CAR-OTP-2106-0489-R01](#), at 0518, 0529, 0533, paras.85, 106, 115-116; [CAR-OTP-2106-0138](#), from [00:00:00] to [00:01:07] and its transcript [CAR-OTP-2122-7417](#), at 7418, l.18-20; P-1577: [CAR-OTP-2081-0769-R01](#), at 0817, para.61; [CAR-OTP-2081-0923-R01](#), at 0945; [CAR-OTP-2085-7665](#); [CAR-OTP-2085-7685](#); [CAR-OTP-2085-7755](#); [CAR-OTP-2085-8745](#); [CAR-OTP-2085-8415](#); [CAR-OTP-2085-8025](#); [CAR-OTP-2085-8625](#); [CAR-OTP-2023-0376](#), from [00:10:32] to [00:12:10] and its transcript [CAR-OTP-2122-9377](#), at 9379, 9390, l.5-6, 415-416.

<sup>393</sup> P-2416: [CAR-OTP-2106-0489-R01](#), at 0513-0514, 0516, 0523, 0538, paras.70-71, 73, 79, 101-102, 126; [CAR-OTP-2023-0376](#), from [00:10:32] to [00:12:10] and its transcript [CAR-OTP-2122-9377](#), at 9387, l.321-336; [CAR-OTP-2007-0925](#), at 1004; [CAR-OTP-2001-7017](#), at 7096; P-2486: [CAR-OTP-2116-0281-R01](#), at 0290-0291, paras.42-43.

<sup>394</sup> [CAR-OTP-2084-0291](#), at 0297; P-1577: [CAR-OTP-2081-0769-R01](#), at 0817, para.61.

<sup>395</sup> [CAR-OTP-2084-0291](#), at 0296, 0298; [CAR-OTP-2001-2308](#), at 2339; P-2416: [CAR-OTP-2106-0489-R01](#), at 0514-0515, 0521-0524, paras.74-75-77, 95-104; [CAR-OTP-2106-0138](#), from [00:00:00] to [00:01:33] and its transcript [CAR-OTP-2122-7417](#), at 7418, l.9-27; [CAR-OTP-2055-1938](#), at 1939; [CAR-OTP-2001-2707](#), at 2727; P-2486: [CAR-OTP-2116-0281-R01](#), at 0294-0295, para.59.

February 2014 emptying the town of its Muslim population,<sup>396</sup> in or around April 2014 the YALoke group intercepted and attacked a large number of Peuhls fleeing Anti-Balaka attacks in the LOBAYE Prefecture. Several Peuhl men were killed<sup>397</sup> and around 500-600 mostly elderly, women, and children, were taken by elements of the YALoke group to YALoke's *quartier sous-manguier* where they remained enclaved for months under threat of death.<sup>398</sup> They were confined in deplorable conditions, and with limited access to food and medical care. Over 40 people died of malnourishment and infections over a few months.<sup>399</sup> The continued threat of Anti-Balaka violence and force, and acts thereof, forced the Peuhl civilians to remain in the YALoke enclave throughout 2014 and 2015.<sup>400</sup>

ii. *BOSSEMPTELE - 18 January 2014*

157. After the Seleka's withdrawal from BOSSEMPTELE, on 18 January 2014, hundreds of Anti-Balaka elements began their attack on the Muslim civilian population,<sup>401</sup> led by

<sup>396</sup> [CAR-OTP-2001-0409](#), at 0411, para.11; [CAR-OTP-2001-7017](#), at 7096, para.348; [CAR-OTP-2001-0463](#), at 0463; [CAR-OTP-2069-0150](#), at 0150; [CAR-OTP-2069-0152](#), at 0152; **P-2486**: [CAR-OTP-2116-0281-R01](#), at 0293-0294, para.55.

<sup>397</sup> **P-0884**: [CAR-OTP-2072-1881-R01](#), at 1908, l.935-961; **P-2416**: [CAR-OTP-2106-0489-R01](#), at 0531, para.109; [CAR-OTP-2049-0462](#), at 0497-0498; **P-2486**: [CAR-OTP-2116-0281-R01](#), at 0286-0288, paras.22-24, 26-27, 30.

<sup>398</sup> **P-2325**: [CAR-OTP-2100-2386-R01](#), at 2403, para.69; **P-2546**: [CAR-OTP-2114-0402-R01](#), at 0431-0432, 0434-0435, paras.109-110, 113; [CAR-OTP-2114-0445-R01](#); [CAR-OTP-2092-1998](#), at 1998; **P-1577**: [CAR-OTP-2081-0769-R01](#), at 0823; [CAR-OTP-2088-0735](#), at 0735; **P-1576**: [CAR-OTP-2060-0280-R01](#), at 0286, para.40; **P-2328**: [CAR-OTP-2099-0165-R01](#), at 0199, 0203-204, paras.185, 201, 212; [CAR-OTP-2016-0972](#), from [00:00:00] to [00:04:29] and its transcript and translation [CAR-OTP-2130-0309](#) and [CAR-OTP-2130-0351](#); [CAR-OTP-2101-3040](#), at 3040; [CAR-OTP-2101-3623](#), at 3623; [CAR-OTP-2001-1057](#), at 1057-1058, para.3; [CAR-OTP-2001-5305](#), at 5321-5325.

<sup>399</sup> **P-0952**: [CAR-OTP-2107-0819-R01](#), at 0823, l.126-159; **P-2486**: [CAR-OTP-2116-0281-R01](#), at 0292-0293, 0297, paras.43, 49-50, 52, 54, 62; [CAR-OTP-2101-3623](#), at 3623; **P-1577**: [CAR-OTP-2081-0769-R01](#), at 0823-0824; [CAR-OTP-2087-4262](#); [CAR-OTP-2087-4282](#); [CAR-OTP-2087-4342](#); [CAR-OTP-2087-4252](#); [CAR-OTP-2087-4362](#); [CAR-OTP-2001-0789](#), at 0793; [CAR-OTP-2023-2771](#), from [00:28:39] to [00:32:32] and its transcript [CAR-OTP-2107-1470](#), at 1470-1472, l.1-51; [CAR-OTP-2049-0462](#), at 0498; [CAR-OTP-2083-0428](#), from [00:07:00] to [00:08:05] and its transcript and translation [CAR-OTP-2130-0325](#), at 0329, l.125-133 and [CAR-OTP-2130-0370](#), at 0375, l.144-156; [CAR-OTP-2002-0504](#), at 0508; [CAR-OTP-2069-0241](#), at 0242, 0244; [CAR-OTP-2079-0893](#), at 0893, 0901; [CAR-OTP-2020-0019](#), at 0034-0035, para.57; [CAR-OTP-2066-0430](#), at 0430-0431.

<sup>400</sup> **P-0952**: [CAR-OTP-2107-1108-R01](#), at 1135-1136, l.900-965; **P-2486**: [CAR-OTP-2116-0281-R01](#), at 0290-0292, 0295, para.42, 46-48, 60; [CAR-OTP-2001-0797](#), at 0798; [CAR-OTP-2011-0133](#), at 0180; [CAR-OTP-2002-0504](#), at 0505, 0507; [CAR-OTP-2055-1987](#), at 2109, 2150, 2158; [CAR-OTP-2016-0968](#), at 0969; [CAR-OTP-2065-0169](#), at 0169; [CAR-OTP-2020-0019](#), at 0034, para.54; [CAR-OTP-2084-0305](#), at 0310, paras.31; [CAR-OTP-2092-2891](#), at 2895; [CAR-OTP-2092-1953](#), at 1955; [CAR-OTP-2069-0241](#), at 0241-0242.

<sup>401</sup> **P-2205** : [CAR-OTP-2108-0465-R01](#), at 0480-0483, 0489, 0501, paras.94-102, 105-108, 143, 203; **P-0811**: [CAR-OTP-2025-0003-R01](#), at 0013-0014, paras.59, 63-64, 67; [CAR-OTP-2048-0109](#), at 0109-0110; [CAR-OTP-2088-0663](#), from [00:06:35] to [00:09:15] and its transcript and translation [CAR-OTP-2127-](#)

Noel TENGUEDE (aka “NDOUROU”), (“NDOUROU”), Rodrigue BANAFEI (aka “GBANAFIN”, “BANAFEI”) and Gervain YAPENDE (aka “GERVAIN”, “Gervais 12 puissances”, “Gervais YAPENDE”, “Gervais POUTHIA MANGELE”, “Gervain LA GUERRE”) (“GERVAIN”) (“BOSSEMPTELE group”).<sup>402</sup> They centred on the town’s ARABE and BALA neighbourhoods, killing at least 22 civilians including children.<sup>403</sup> Muslim shops in the main market were pillaged and some were destroyed.<sup>404</sup> Houses were burnt down, and at least two Mosques pillaged, damaged and set alight.<sup>405</sup>

6276, [CAR-OTP-2127-6401](#), at 6405-6406, 1.98-128; [CAR-OTP-2088-0977](#) and its transcript [CAR-OTP-2089-0323](#), at 0327, 0328, 0330-0331, 1.49-56, 97-98, 201-210.

On the departure of the Seleka on the 17<sup>th</sup> of January 2014, *see also* [CAR-OTP-2025-0044](#), from [00:06:01] to [00:09:24] and its transcript and translation [CAR-OTP-2107-2977](#) and [CAR-OTP-2107-2983](#), at 2986-2990, 1.65-178; [CAR-OTP-2001-7017](#), at 7092, para.316; [CAR-OTP-2045-0287](#), at 0287; [CAR-OTP-2045-0561](#), at 0561-0562; [CAR-OTP-2045-0563](#), at 0563.

<sup>402</sup> **P-2205:** [CAR-OTP-2108-0465-R01](#), at 0478, 0489, paras.81, 141, 143; **P-0811:** [CAR-OTP-2025-0003-R01](#), at 0013, para.59. ‘GERVAIS’ also known as ‘Gervais 12 puissances’, ‘Gervais YAPENDE’, ‘Gervais POUTHIA MANGELE’ and ‘Gervain LA GUERRE’ became ComZone at a later stage, once NDOUROU left BOSSEMPTELE. *See* **P-0889:** [CAR-OTP-2030-0232](#), at 0237, [CAR-OTP-2027-2290-R01](#), at 2306, para.100; **P-0966:** [CAR-OTP-2031-0241-R01](#), at 0261, para.114; **P-0589:** [CAR-OTP-2029-0014-R01](#), at 0026, para.77; [CAR-OTP-2023-0032](#), at 0172; [CAR-OTP-2030-0445](#), at 0447.

<sup>403</sup> [CAR-OTP-2045-0561](#), at 0561; [CAR-OTP-2048-0109](#), at 0109; [CAR-OTP-2045-0581](#), at 0581; **P-0811:** [CAR-OTP-2025-0003-R01](#), at 0015, para.72, at 0018; [CAR-OTP-2025-0021-R01](#); **P-2205:** [CAR-OTP-2108-0465-R01](#), at 0483, paras.111-112; [CAR-OTP-2083-1170](#), from [00:00:22] to [00:00:27], from [00:00:44] to [00:00:50] and its transcript and translation [CAR-OTP-2127-6555](#) and [CAR-OTP-2127-6606](#); [CAR-OTP-2083-1173](#), from [00:04:08] to [00:04:24] and its transcript and translation [CAR-OTP-2127-6558](#) and [CAR-OTP-2127-6610](#); [CAR-OTP-2083-1725](#); [CAR-OTP-2083-1765](#); [CAR-OTP-2083-1773](#); [CAR-OTP-2083-1781](#); [CAR-OTP-2083-1785](#); [CAR-OTP-2088-1129](#); [CAR-OTP-2083-1841](#); [CAR-OTP-2001-5305](#), at 5320-5321; [CAR-OTP-2082-0646](#), from [00:02:35] to [00:04:52] and its transcript and translation [CAR-OTP-2127-4519](#) and [CAR-OTP-2127-4611](#); [CAR-OTP-2060-0358](#), at 0359; [CAR-OTP-2025-0044](#), from [00:06:00] to [00:07:07] and its transcript and translation [CAR-OTP-2107-2977](#) and [CAR-OTP-2107-2983](#), at 2986-2988, 1.65-118; [CAR-OTP-2001-7017](#), at 7092, para.321; [CAR-OTP-2045-0536](#), at 0536; [CAR-OTP-2045-0559](#), at 0559; [CAR-OTP-2055-1987](#), at 2163; [CAR-OTP-2001-2203](#), at 2206, 2211; [CAR-OTP-2079-0815](#), from [00:10:50] to [00:11:40]; [CAR-OTP-2083-1231](#) and its transcript and translation [CAR-OTP-2127-6243](#) and [CAR-OTP-2127-6361](#); [CAR-OTP-2083-1234](#); [CAR-OTP-2082-0607](#), from [00:01:29] to [00:04:02] and its transcript [CAR-OTP-2122-7407](#).

<sup>404</sup> **P-0811:** [CAR-OTP-2025-0003-R01](#), at 0015-0017, paras.74, 77, 87-89; [CAR-OTP-2025-0044](#), from [00:00:00] to [00:05:50] and its transcript and translation [CAR-OTP-2107-2977](#) and [CAR-OTP-2107-2983](#), at 2985-2986, 1.1-63; P-1576 at [CAR-OTP-2060-0280-R01](#), at 0285, para.30, [CAR-OTP-2075-0074](#), at 0256, 0257, 0258.

<sup>405</sup> **P-0811:** [CAR-OTP-2025-0003-R01](#), at 0015-0017, paras.74, 77, 92, [CAR-OTP-2025-0044](#), from [00:05:13] to [00:05:24] and its transcript and translation [CAR-OTP-2107-2977](#) and [CAR-OTP-2107-2983](#); **P-2205:** [CAR-OTP-2108-0465-R01](#), at 0485, 0487 paras.122, 134, [CAR-OTP-2083-1231](#), from [00:00:00] to [00:03:53] and its transcript and translation [CAR-OTP-2127-6243](#) and [CAR-OTP-2127-6361](#); [CAR-OTP-2088-0864](#); [CAR-OTP-2088-0865](#); [CAR-OTP-2088-0866](#); [CAR-OTP-2088-0877](#); [CAR-OTP-2088-0878](#); [CAR-OTP-2088-0879](#); [CAR-OTP-2088-0883](#); [CAR-OTP-2088-0884](#); [CAR-OTP-2048-0109](#), at 0109; [CAR-OTP-2045-0561](#), at 0561; [CAR-OTP-2045-0536](#), at 0536; [CAR-OTP-2045-0581](#), at 0581; [CAR-OTP-2055-1987](#), at 2163.

158. Muslim civilians were forced to flee *en masse* to neighbouring villages or to CAMEROON.<sup>406</sup> Many took refuge at the “*Sainte-Thérèse*” Catholic Mission, joining others fleeing nearby towns.<sup>407</sup> By the end of January 2014, around 1,500 Muslim civilians were enclaved at *Sainte-Thérèse*, under siege and under threat.<sup>408</sup> Following negotiations and on orders from BANGUI “not to kill Muslims anymore”, the BOSSEMPTELE group’s leadership allowed some men to leave.<sup>409</sup> By July 2014, almost all refugees had been evacuated, although some remained through 2015.<sup>410</sup>

iii. *GUEN - 1 February 2014*

159. Soon after the Seleka’s withdrawal from GUEN,<sup>411</sup> on or about 1 February 2014, an Anti-Balaka group of about 100 to 400 armed elements began their attack on Muslim civilians,<sup>412</sup> led by Edmond BEINA (“BEINA”) and his deputies, including Mathurin KOMBO (“KOMBO”) (“GUEN group”).<sup>413</sup> Between 1 and 8 February, they murdered at least 70 Muslim civilians men and boys, some as young as age 9 over several days.<sup>414</sup>

<sup>406</sup> **P-0811**: [CAR-OTP-2025-0003-R01](#), at 0019, para.95, [CAR-OTP-2025-0026-R01](#); [CAR-OTP-2048-0109](#), at 0109-0110; [CAR-OTP-2045-0561](#), at 0561; [CAR-OTP-2015-0493](#), at 0494, 0496-0497; [CAR-OTP-2001-2308](#), at 2330; [CAR-OTP-2001-7145](#), at 7168.

<sup>407</sup> **P-2205**: [CAR-OTP-2108-0465-R01](#), at 0492-0493, para.164; [CAR-OTP-2001-5305](#), at 5319-5320; [CAR-OTP-2001-2203](#), at 2213; [CAR-OTP-2045-0563](#), at 0563; [CAR-OTP-2045-0581](#), at 0581; [CAR-OTP-2045-0569](#), at 0569; [CAR-OTP-2001-5305](#), at 5315; [CAR-OTP-2001-2308](#), at 2315-2316; [CAR-OTP-0083-1246](#), at 1272, 1274; [CAR-OTP-2001-2252](#), at 2252; [CAR-OTP-2001-7145](#), at 7164-7165; [CAR-OTP-2079-0815](#), from [00:02:05] to [00:03:15] [transcript and/or translation request pending with LSU]; [CAR-OTP-2083-0428](#), from [00:01:28] to [00:03:00] and its transcript and translation [CAR-OTP-2130-0325](#) and [CAR-OTP-2130-0370](#).

<sup>408</sup> **P-2205**: [CAR-OTP-2108-0465-R01](#), at 0487, 0492-0493, 0495, paras.135, 164, 176, [CAR-OTP-2088-1144](#); [CAR-OTP-2088-0663](#), from [00:08:00] to [00:09:15] and [CAR-OTP-2127-6276](#) and [CAR-OTP-2127-6401](#); [CAR-OTP-2001-5305](#), at 5326-5327.

<sup>409</sup> [REDACTED].

<sup>410</sup> [REDACTED]; **P-1577**: [CAR-OTP-2081-0769-R01](#), at 0824-0825, [CAR-OTP-2087-4322](#); [CAR-OTP-2087-4332](#).

<sup>411</sup> **P-0595**: [CAR-OTP-2018-0761-R01](#), at 0766, para.30; **P-1598**: [CAR-OTP-2057-0892-R01](#), at 0897, para.26.

<sup>412</sup> **P-0595**: [CAR-OTP-2018-0761-R01](#), at 0764, 0766, paras.17, 27; **P-1964**: [CAR-OTP-2094-1755-R01](#), at 1758-1759, 1761, paras.27, 34.

<sup>413</sup> [CAR-OTP-2001-0835](#), at 0980; [CAR-OTP-2019-1337](#), at 1338; [CAR-OTP-2001-2299](#), at 2301; **P-0595**: [CAR-OTP-2018-0761-R01](#), at 0767, paras.32-33; **P-1964**: [CAR-OTP-2094-1755-R01](#), at 1765, para.83; **P-1598**: [CAR-OTP-2057-0892-R01](#), at 0896, para.24; **P-0732**: [CAR-OTP-2061-0003-R01](#), at 0009, para.45; **P-1964**: [CAR-OTP-2094-1755-R01](#), at 1763, 1765, paras.60, 83.

The GUEN group was connected to, and under the leadership of the Anti-Balaka National Coordination. See **P-2232**: [CAR-OTP-2100-2569-R01](#), at 2578-2579, paras.49, 51-52; **P-1042**: [CAR-OTP-2107-0591-R01](#), at 0621-0622, l.1015-1039; **P-0992**: [CAR-OTP-2122-6499-R01](#), at 6525-6526, paras.166-171; [CAR-OTP-2001-2299](#), at 2301.

<sup>414</sup> [CAR-OTP-2001-0835](#), at 0979, para.3; [CAR-OTP-2001-4330](#), at 4330; [CAR-OTP-2002-0504](#), at 0506; [CAR-OTP-2017-0115](#), at 0122; [CAR-OTP-2019-1340](#), at 1341.

Around 22 males were killed on the first day of the attack alone.<sup>415</sup> Some 42 were summarily executed on 5 February.<sup>416</sup> Others were killed thereafter.<sup>417</sup> In the course of the attack, which centred on the HAOUSSA and MBOROKOUTOU *quartiers*, the GUEN group systematically pillaged and destroyed Muslim houses and shops.<sup>418</sup>

160. Muslim civilians were forced to flee to safe places within the village, including at the compounds of certain Muslim notables.<sup>419</sup> The GUEN group removed about 163 Muslim civilians to the Catholic Mission in nearby DJOMO, where they remained for almost one month before MISCA troops escorted them to CARNOT. From there, most were eventually taken to CAMEROON.<sup>420</sup> Others, mainly women and children, were detained at the SODIAM compound in GUEN for some two months, during which elements of the GUEN group confined, threatened,<sup>421</sup> and in some instances, raped or attempted to rape.<sup>422</sup>

#### iv. CARNOT - Early February 2014

161. After the Seleka's withdrawal,<sup>423</sup> in early February 2014 an Anti-Balaka group of up to 2,000 elements<sup>424</sup> began their attack on the Muslim civilian population,<sup>425</sup> led by

<sup>415</sup> **P-1964:** [CAR-OTP-2094-1755-R01](#), at 1760, para.40; **P-0732:** [CAR-OTP-2061-0003-R01](#), at 0008, paras.32, 37; **P-0595:** [CAR-OTP-2018-0761-R01](#), at 0766, paras.27-28; **P-1598:** [CAR-OTP-2057-0892-R01](#), at 0896, para.24.

<sup>416</sup> **P-0595:** [CAR-OTP-2018-0761-R01](#), at 0767-0769, paras.35-39, 41-43; **P-1964:** [CAR-OTP-2094-1755-R01](#), at 1761, para.46; **P-0732:** [CAR-OTP-2061-0003-R01](#), at 0009-0011, paras.44-47, 49, 52; **P-1598:** [CAR-OTP-2057-0892-R01](#), at 0898, paras.32-34, [CAR-OTP-2057-0911-R01](#), at 0911; [CAR-OTP-2019-1230](#), from [00:02:50] to [00:03:10], and its transcript and translation, [CAR-OTP-2082-0278](#), at 0280-0281, l.67-77 and [CAR-OTP-2082-0285](#), at 0288-0289, l.67-77; [CAR-OTP-2019-1337](#), at 1338.

<sup>417</sup> **P-1598:** [CAR-OTP-2057-0892-R01](#), at 0901, paras.45-46; **P-0732:** [CAR-OTP-2061-0003-R01](#), at 0011-0013, paras.56, 58, 72; **P-1964:** [CAR-OTP-2094-1755-R01](#), at 1760, para.41.

<sup>418</sup> **P-1964:** [CAR-OTP-2094-1755-R01](#), at 1759, 1764-1765, paras.32, 34-35, 69, 73, 78; **P-0595:** [CAR-OTP-2018-0761-R01](#), at 0764, 0767, 0770-0771, paras.19, 32, 57; **P-0732:** [CAR-OTP-2061-0003-R01](#), at 0008, 0009, 0017, paras.33, 41, 98; **P-1598:** [CAR-OTP-2057-0892-R01](#), at 0908, para.71.

<sup>419</sup> **P-0595:** [CAR-OTP-2018-0761-R01](#), at 0766, para.30; **P-0732:** [CAR-OTP-2061-0003-R01](#), at 0009, paras.41-42; **P-1964:** [CAR-OTP-2094-1755-R01](#), at 1760-1761, para.43.

<sup>420</sup> **P-1598:** [CAR-OTP-2057-0892-R01](#), at 0899, 0907, paras.38, 70; **P-0595:** [CAR-OTP-2018-0761-R01](#), at 0770, para.50; **P-1964:** [CAR-OTP-2094-1755-R01](#), at 1761, para.47.

<sup>421</sup> [REDACTED].

<sup>422</sup> [REDACTED].

<sup>423</sup> **P-0289:** [CAR-OTP-2024-0288-R01](#), at 0293, para.31; **P-1042:** [CAR-OTP-2107-0202-R01](#), at 0232-0233, l.995-1016, l.1024-1036; [CAR-OTP-2077-0486](#), at 0486-0487.

<sup>424</sup> **P-1042:** [CAR-OTP-2107-0427-R01](#), at 0454-0456, l.908-942, l.952; **P-2326:** [CAR-OTP-2100-2178-R01](#), at 2187, para.43; [CAR-OTP-2001-4249](#), at 4249; [CAR-OTP-2058-0571](#), from [00:22:18] to [00:22:32] [transcript and/or translation request pending with LSU].

<sup>425</sup> **P-0289:** [CAR-OTP-2024-0288-R01](#), at 0296, para.44; **P-2393:** [CAR-OTP-2108-0140-R02](#), at 0149-0150, paras.52, 57, 58-59; **P-2132:** [CAR-OTP-2080-0884-R01](#), at 0892, para.42; **P-1042:** [CAR-OTP-2107-](#)

ComZone Aimé Blaise ZAOROYANGA (aka “ZOWORO”) (“ZAOROYANGA”), along with Sylvestre SINAKOLO (aka “Sylvain SINAKOLO”, “SINACOLO”) (“SINAKOLO”), and Barthelemy NAMSENMO (“NAMSENMO”) (“CARNOT group”).<sup>426</sup> Throughout the continuation of the attack, Muslim civilians were beaten, reportedly killed,<sup>427</sup> and forcibly displaced *en masse*.

162. Most of CARNOT’s Muslim population was forced to flee to villages within CAR, or mainly to CAMEROON and CHAD.<sup>428</sup> Others took refuge at the *Saint Martyr de l’Ouganda* Catholic Church,<sup>429</sup> together with Muslims from neighbouring villages and more distant towns, such as GUEN, YALoke, BOSSEMBELE, BOZOUm, BAORO and BOSSEMPTELE.<sup>430</sup> Some 3,000 Muslim civilians remained enclaved at *Saint Martyr de l’Ouganda* besieged and under threat.<sup>431</sup> The Anti-Balaka blocked the entrance gate

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[0202-R01](#), at 0232-0234, l.1017-1022, l.1051-1069, [CAR-OTP-2107-0427-R01](#), at 0456, l.962-976; [CAR-OTP-2073-0889](#), at 0890; [CAR-OTP-2001-2247](#); [CAR-OTP-2005-0323](#); [CAR-OTP-2001-2306](#), at 2306.

<sup>426</sup> **P-2393**: [CAR-OTP-2108-0140-R02](#), at 0149, 0151, 0153, paras.55-56, 64, 72; **P-2132**: [CAR-OTP-2080-0884-R01](#), at 0893, paras 50-51; **P-0289**: [CAR-OTP-2024-0288-R01](#), at 0300, para.65; **P-2556**: [CAR-OTP-2112-1300-R01](#), at 1306-1308, paras 41, 46-48, 51, 61; **P-1042**: [CAR-OTP-2107-0262-R01](#), at 0275-0278, l.425-451, l.490-523, [CAR-OTP-2107-0591-R01](#), at 0614, l.751-778, [CAR-OTP-2107-0462-R01](#), at 0481, l.628-633; **P-1719**: [CAR-OTP-2062-0039-R02](#), at 0050, para.70; **P-0966**: [CAR-OTP-2031-0241-R01](#), at 0261, para.114; **P-0808**: [CAR-OTP-2025-0324-R03](#), at 0349; **P-1521**: [CAR-OTP-2046-0603-R01](#), at 0624, para.127; **P-0889**: [CAR-OTP-2030-0232](#), at 0237, para.101, [CAR-OTP-2030-0269](#); [CAR-OTP-2032-1221](#), at 1228; [CAR-OTP-2090-0487](#), at 0488; [CAR-OTP-2030-0445](#), at 0453; [CAR-OTP-2020-0156](#), row.117; [CAR-OTP-2001-0835](#), at 0851-0852, para.64; [CAR-OTP-2001-5386](#), at 5422, para.147; [CAR-OTP-2069-0236](#), at 0237.

<sup>427</sup> **P-0289**: [CAR-OTP-2024-0288-R01](#), at 0297, 0300, 0302, paras.50-53, 68-69, 76; [CAR-OTP-2000-0218-R01](#), at 0223; [CAR-OTP-2001-1334](#), at 1334; [CAR-OTP-2002-0504](#), at 0505, 0508-0509; [CAR-OTP-2055-1987](#), at 2167; [CAR-OTP-2061-1441](#), rows.1035, 1174, 1176; [CAR-OTP-2092-1407](#), at 1409; [CAR-OTP-2090-0373](#), at 0382; **P-2132**: [CAR-OTP-2080-0884-R01](#), at 0895, para.56.

<sup>428</sup> **P-0289**: [CAR-OTP-2024-0288-R01](#), at 0302, para.76; **P-1074**: [CAR-OTP-2094-0228-R02](#), at 0253, para.144; **P-1719**: [CAR-OTP-2062-0039-R02](#), at 0050, para.71; [CAR-OTP-2079-0842](#), at 0844; [CAR-OTP-2069-0136](#); [CAR-OTP-2069-0152](#); [CAR-OTP-2069-0138](#); [CAR-OTP-2069-0150](#); [CAR-OTP-2002-0504](#), at 0505.

<sup>429</sup> **P-2393**: [CAR-OTP-2108-0140-R02](#), at 0151, para.65; **P-1042**: [CAR-OTP-2107-0202-R01](#), at 0233, l.1038-1047; [CAR-OTP-2099-0593](#), from [00:09:18] to [00:16:15] and its transcript and translation [CAR-OTP-2127-6286](#) and [CAR-OTP-2127-6416](#); **P-2132**: [CAR-OTP-2080-0884-R01](#), at 0898-0900, paras.73, 78; [CAR-OTP-2083-0345](#), from [00:00:28] to [00:01:00] ] and its transcript and translation [CAR-OTP-2127-6239](#) and [CAR-OTP-2127-6355](#); [CAR-OTP-2083-0343](#), at 0343; **P-2328**: [CAR-OTP-2099-0165-R01](#), at 0205, para.214.

<sup>430</sup> **P-0289**: [CAR-OTP-2024-0288-R01](#), at 0293-0294, paras.31-33; **P-1739**: [CAR-OTP-2054-1089-R01](#), at 1100, para.57; [CAR-OTP-2019-1230](#), from [00:00:30] to [00:01:28] and its transcript and translation [CAR-OTP-2082-0278](#), at 0279, l.4-28, [CAR-OTP-2082-0285](#), at 0287, l.4-28; [CAR-OTP-2019-1337](#), at 1339; [CAR-OTP-2099-0593](#), from [00:09:18] to [00:16:15], from [00:16:16] to [00:37:24], from [00:57:15] to [01:04:22], from [01:47:15] to [02:35:22] and its transcript and translation [CAR-OTP-2127-6286](#) and [CAR-OTP-2127-6416](#); [CAR-OTP-2049-0462](#), at 0499; [CAR-OTP-2073-0889](#), at 0890; [CAR-OTP-2012-0479](#), from [00:00:41] to [00:01:25] and its transcript and translation [CAR-OTP-2127-4487](#) and [CAR-OTP-2127-4573](#).

<sup>431</sup> **P-0289**: [CAR-OTP-2024-0288-R01](#), at 0293-0294, 0296, 0302, paras.31-32, 44, 77; [CAR-OTP-2049-0462](#), at 0499-0500; [CAR-OTP-2083-0333](#), at 0333; [CAR-OTP-2001-2247](#), at 2247; [CAR-OTP-2073-0889](#), at 0889-0890; [CAR-OTP-2077-0486](#) at 0488-0489; [CAR-OTP-2001-7012](#), from [00:07:48] to

trapping the Muslims inside the compound and attacked those who tried to leave.<sup>432</sup> They remained just outside the Church compound gates, enforcing the Muslims' confinement within,<sup>433</sup> most of whom were women and children.<sup>434</sup> They were forced to endure deplorable circumstances, they faced shortages of and poor access to medicine. These circumstances and poor sanitary conditions exposed them to disease and sickness.<sup>435</sup> The continued threat of Anti-Balaka force and violence and acts thereof, forced Muslim civilians to remain in the CARNOT enclave throughout 2014, and into early 2016.<sup>436</sup>

v. *BODA - 5 February 2014*

163. After the Seleka's withdrawal from BODA,<sup>437</sup> a group of Anti-Balaka elements made up of locals, several FACA<sup>438</sup> and members of YEKATOM's Group,<sup>439</sup> led by Habib SOUSSOU ("SOUSSOU"), OUANDJIO, Roddy MBOSSE ("MBOSSE") and Hippolyte

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[00:08:28]; [CAR-OTP-2012-0463](#), at [00:01:25] to [00:02:30] and its transcript [CAR-OTP-2107-1495](#), at 1496, l.1-28; [CAR-OTP-2012-0477](#), from [00:00:08] to [00:03:30], and its transcript and translation [CAR-OTP-2107-6886](#), at 6887-6888, l.4-75, [CAR-OTP-2107-7010](#), at 7012-713, l.4-75; [CAR-OTP-2001-4401](#), at 4401; [CAR-OTP-2001-4402](#), at 4402; [CAR-OTP-2055-1987](#), at 2166; [CAR-OTP-2079-0885](#), at 0885; **P-2132**: [CAR-OTP-2080-0884-R01](#), at 0898-0900, paras.73, 78, 81; [CAR-OTP-2019-1359](#), from [00:05:00] to [00:05:40] [transcript and/or translation request pending with LSU]; [CAR-OTP-2019-1230](#), from [00:00:30] to [00:01:28] and its transcript and translation [CAR-OTP-2082-0278](#), at 0279, l.4-28, [CAR-OTP-2082-0285](#), at 0287, l.4-28; [CAR-OTP-2019-1337](#), at 1.3-39.

<sup>432</sup> **P-2393**: [CAR-OTP-2108-0140-R02](#), at 0153, para.72; [CAR-OTP-2083-0333](#), at 0333; [CAR-OTP-2083-0346](#), at 0346; [CAR-OTP-2083-0352](#), at 0352; [CAR-OTP-2079-0882](#), from [00:03:34] to [00:03:54] and its transcript and translation [CAR-OTP-2127-4507](#) and [CAR-OTP-2127-4597](#); [CAR-OTP-2019-1359](#), from [00:05:47] to [00:06:44] [transcript and/or translation request pending with LSU]; **P-1576**: [CAR-OTP-2060-0280-R01](#), at 0287, para.44; [CAR-OTP-2061-4392](#); [CAR-OTP-2079-0861](#), at 0864; [CAR-OTP-2073-0889](#), at 0890; [CAR-OTP-2079-0885](#), at 0885-0886; [CAR-OTP-2083-0340](#), at 0340; [CAR-OTP-2090-0373](#), at 0382.

<sup>433</sup> [CAR-OTP-2083-0349](#), at 0349; [CAR-OTP-2049-0462](#), at 0500; **P-0289**: [CAR-OTP-2024-0288-R01](#), at 0302, para.79; **P-1576**: [CAR-OTP-2060-0280-R01](#), at 0287, para.44; [CAR-OTP-2079-0861](#), at 0864; [CAR-OTP-2001-2306](#), at 2307; [CAR-OTP-2015-0493](#), at 0498.

<sup>434</sup> **P-0289**: [CAR-OTP-2024-0288-R01](#) at 0294, para.34; [CAR-OTP-2073-0889](#), at 0890; [CAR-OTP-2015-0493](#), at 0497; [CAR-OTP-2079-0885](#), at 0887; [CAR-OTP-2079-0890](#); [CAR-OTP-2079-0892](#).

<sup>435</sup> [CAR-OTP-2073-0889](#), at 0890-0891; [CAR-OTP-2015-0493](#), at 0497; [CAR-OTP-2092-3083](#) at 3083, 3085-3092. **P-0289**: [CAR-OTP-2024-0288-R01](#), at 0302, para.78; [CAR-OTP-2083-0357](#), at 0374; [CAR-OTP-2077-0486](#), at 0489; [CAR-OTP-2090-0373](#), at 0382.

<sup>436</sup> **P-0289**: [CAR-OTP-2024-0288-R01](#), at 0302, para.79; **P-1576**: [CAR-OTP-2060-0280-R01](#), at 0287, para.44.

<sup>437</sup> **P-1773**: [CAR-OTP-2064-0063-R01](#), at 0068-0069, paras.31-33; **P-1962**: [CAR-OTP-2068-0037-R02](#), at 0042, paras.15-16; [CAR-OTP-2001-0835](#), at 0954; [CAR-OTP-2064-1013](#), at 1013; [CAR-OTP-2065-0167](#), at 0167; [CAR-OTP-2060-0795](#), from [00:00:00] to [00:00:50] [transcript and/or translation request pending with LSU].

<sup>438</sup> **P-1962**: [CAR-OTP-2068-0037-R02](#), at 0041, 0043, 0057, paras.10-12, 26, 99.

<sup>439</sup> **P-1962**: [CAR-OTP-2068-0037-R02](#), at 0044, paras.27-32; **P-1339**: [CAR-OTP-2041-0741-R01](#), at 0750, para.59; **P-2138**: [CAR-OTP-2092-3976-R01](#), at 4000-4001, l.904-932, [CAR-OTP-2092-4004-R01](#), at 4033, l.1047-1062, [CAR-OTP-2092-4143-R01](#), at 4155-4157, l.428-433, 458-502, 675-685; **P-0801**: [CAR-OTP-2074-2234-R01](#), at 2238-2239, l.125-158, and 2248-2250, l.461-552; **P-1577**: [CAR-OTP-2081-0769-R01](#), at 0812, [CAR-OTP-2088-0734](#); [CAR-OTP-2084-0291](#), at 0294.

YAMINI (“YAMINI”) began an attack on the town’s Muslim civilians on or about 5 February 2014 (“BODA group”).<sup>440</sup> At least 11 Muslim civilians were killed.<sup>441</sup> The Muslim market was burned down, as were hundreds of Muslim houses and businesses.<sup>442</sup>

164. BODA’s Muslim civilians were forced to flee. Some were evacuated by international forces to BANGUI, CHAD, and CAMEROON.<sup>443</sup> Others fled to a few central neighbourhoods, including ALI, ARAB, BAGUIRA and BINDOO, where they were enclaved.<sup>444</sup> Within weeks the enclave swelled from 6,000 to at least 14,000 Muslims,<sup>445</sup> with the influx of Muslims fleeing Anti-Balaka attacks in neighbouring towns and villages

<sup>440</sup> **P-1962:** [CAR-OTP-2068-0037-R02](#), at 0042-0043, 0045-0047, 0062, paras.20-21, 25-26, 36-37, 39-40, 42-43, 45, 123-124, [CAR-OTP-2071-0093](#), at 0146-0147, [CAR-OTP-2071-0003-R01](#), at 0008, para.33; **P-2138:** [CAR-OTP-2092-4004-R01](#), at 4006-4007, 1.68-109, [CAR-OTP-2092-4143-R01](#), at 4158-4160, 1.544-646; **P-0884:** [CAR-OTP-2072-1739-R01](#), at 1762-1763, 1.798-831, at 1766-1767, 1.923-950, [CAR-OTP-2072-1814-R01](#), at 1822, 1.251-281, [CAR-OTP-2072-1881-R01](#), at 1904-1905, 1.820-85; **P-1577:** [CAR-OTP-2081-0769-R01](#), at 0817, para.60, [CAR-OTP-2085-7605](#), [CAR-OTP-2081-0923-R01](#), at 0942, [CAR-OTP-2088-0733](#); **P-1074:** [CAR-OTP-2094-0228-R02](#), at 0244, 0247, paras.91-92, 107-108; **P-1193:** [CAR-OTP-2045-0048-R02](#), at 0059, para.72; [CAR-OTP-2051-0743](#), at 0745; [CAR-OTP-2019-1383](#) at 1386; [CAR-OTP-2001-5739](#), at 5785; [CAR-OTP-2001-5386](#), at 5466-5468; [CAR-OTP-2001-2769](#), at 2791; [CAR-OTP-2001-4633](#), at 4633; [CAR-OTP-2055-1968](#), at 1973-1974; [CAR-OTP-2042-3463](#), from [00:00:00] to [00:01:37] and its transcript [CAR-OTP-2107-1526](#), at 1527, l. 1-18; [CAR-OTP-2058-0573](#), from [00:27:52] to [00:29:05] and its transcript [CAR-OTP-2118-0420](#); [CAR-OTP-2060-0799](#), at 0799; [CAR-OTP-2080-1470](#); [CAR-OTP-2060-0795](#), from [00:01:27] to [00:02:11] transcript and/or translation request pending with LSU; [CAR-OTP-2074-0789](#), from [00:03:32] to [00:04:37] and its transcript and translation [CAR-OTP-2130-0317](#) and [CAR-OTP-2130-0361](#); [CAR-OTP-2058-0573](#), from [00:27:52] to [00:29:05] and its transcript [CAR-OTP-2118-0420](#); [CAR-OTP-2101-2916](#), at 2917; [CAR-OTP-2092-1902](#), at 1907; [CAR-OTP-2060-0804](#), at 0804; [CAR-OTP-2065-0167](#), at 0168; [CAR-OTP-2001-5138](#), at 5141; [CAR-OTP-2066-5312](#), from [00:00:00] to [00:01:12] and its transcript and translation [CAR-OTP-2127-4504](#) and [CAR-OTP-2127-4593](#), at 4595-4596, l. 1-52; [CAR-OTP-2087-9680](#), from [00:04:00] to [00:07:00] and its transcript and translation [CAR-OTP-2127-6269](#) and [CAR-OTP-2127-6392](#).

<sup>441</sup> [REDACTED].

<sup>442</sup> **P-1339:** [CAR-OTP-2041-0741-R01](#), at 0758, paras.112-113; **P-1576:** [CAR-OTP-2060-0280-R01](#), at 0286, para.35; [CAR-OTP-2075-0074](#), at 0332, 0333, 0334; **P-1773:** [CAR-OTP-2064-0063-R01](#), at 0080, para. 98; **P-1577:** [CAR-OTP-2081-0769-R01](#), at 0811, [CAR-OTP-2085-6725](#), [CAR-OTP-2085-6755](#); [CAR-OTP-2055-1987](#), at 2159; [CAR-OTP-2001-0835](#), at 0955-0956, paras.9-15; [CAR-OTP-2001-2564](#), at 2580; see also [CAR-OTP-2127-6617](#), at 6620, 6623; [CAR-OTP-2127-6626](#), at 6631.

<sup>443</sup> **P-1074:** [CAR-OTP-2094-0228-R02](#), at 0263, para.201; **P-1871:** [CAR-OTP-2064-0884-R01](#), at 0889, paras.25-28; [CAR-OTP-2101-2916](#), at 2916; [CAR-OTP-2001-4434](#).

<sup>444</sup> **P-1962:** [CAR-OTP-2068-0037-R02](#) at 0056, para.94, [CAR-OTP-2071-0093](#), at 0146-0147, [CAR-OTP-2068-0073](#); [CAR-OTP-2060-0795](#), from [00:00:00] to [00:00:50] [transcript and/or translation request pending with LSU]; [CAR-OTP-2080-1472](#), from [00:00:00] to [00:01:25]; [CAR-OTP-2080-1476](#), at 1476; [CAR-OTP-2001-5386](#), at 5566.

<sup>445</sup> **P-1871:** [CAR-OTP-2064-0884-R01](#), at 0888-0889, paras.20, 24; [CAR-OTP-2001-1057](#), at 1057; **P-1773:** [CAR-OTP-2064-0063-R01](#), at 0071-0072, paras.48-49, at 0073-0074, paras.59-61; [CAR-OTP-2001-4429](#); [CAR-OTP-2060-0801](#), at 0801; **P-1576:** [CAR-OTP-2060-0280-R01](#), at 0285, para.35, [CAR-OTP-2075-0074](#), at 0326, 0328, 0330, 0331; [CAR-OTP-2067-1289](#), at 1289; [CAR-OTP-2003-1654](#), at 1842; [CAR-OTP-2074-0789](#), from [00:01:32] to [00:03:17] and its transcript and translation [CAR-OTP-2130-0317](#) and [CAR-OTP-2130-0361](#); [CAR-OTP-2001-2885](#), at 2885; [CAR-OTP-2023-1978](#), from [09:40:00] to [00:10:00] and its transcript [CAR-OTP-2122-9413](#); [CAR-OTP-2023-2049](#), from [00:06:52] to [00:07:24] and its transcript and translation [CAR-OTP-2127-6194](#) and [CAR-OTP-2127-6298](#); [CAR-OTP-2076-0809](#), from [00:00:00] to [00:01:16] and its transcript [CAR-OTP-2127-6702](#), at 6703, l.3-17.

including MBAIKI.<sup>446</sup> Subjected to continuing Anti-Balaka violence and threats,<sup>447</sup> attempts to leave the BODA enclave even to find food or firewood carried the threat of death.<sup>448</sup> Even non-Muslims who provided assistance to Muslim civilians were targeted.<sup>449</sup> The enclave's inhabitants endured deplorable conditions, including overcrowding, food and water shortages, and limited access to medicine and medical treatment. The resulting unsanitary conditions led to many deaths.<sup>450</sup> Over the following weeks and months, elements of the BODA group continued to commit violent crimes against Muslim civilians, including the rape of several Muslim women and girls, as well as Christian women accused of helping Muslims.<sup>451</sup> The continued threat of Anti-Balaka force and violence and acts thereof forced Muslim civilians to remain in the BODA enclave throughout 2014.<sup>452</sup>

<sup>446</sup> [CAR-OTP-2001-0835](#), at 0956, para.18; **P-2084**: [CAR-OTP-2094-0968-R02](#), at 0982, para.73; **P-2233**: [CAR-OTP-2118-5956-R01](#), at 5974, l.600-607.

<sup>447</sup> **P-0952**: [CAR-OTP-2107-0819-R01](#), at 0821, l.51-60; **P-1577**: [CAR-OTP-2081-0769-R01](#), at 0811; **P-1719**: [CAR-OTP-2062-0039-R02](#), at 0055, para.101; [CAR-OTP-2055-1987](#), at 2160; [CAR-OTP-2001-0463](#), at 0463; [CAR-OTP-2064-1013](#), at 1013; [CAR-OTP-2066-5312](#), from [00:00:00] to [00:00:45] and its transcript and translation [CAR-OTP-2127-4504](#) and [CAR-OTP-2127-4593](#), at 4595, l.1-34; [CAR-OTP-2001-4633](#), at 4633; [CAR-OTP-2001-5138](#), at 5141; [CAR-OTP-2001-5386](#), at 5566; [CAR-OTP-2092-2033](#), at 2037; [CAR-OTP-2058-0573](#), from [00:26:04] to [00:26:35] and its transcript [CAR-OTP-2118-0420](#).

<sup>448</sup> **P-1962**: [CAR-OTP-2068-0037-R02](#), at 0050, 0053, paras.61, 76; **P-2138**: [CAR-OTP-2092-4221-R01](#), at 4242-4245, l.792-890; [CAR-OTP-2003-1654](#), at 1785.

<sup>449</sup> [CAR-OTP-2001-0835](#), at 0956; **P-1773**: [CAR-OTP-2064-0063-R01](#), at 0074, para.64; **P-1962**: [CAR-OTP-2068-0037-R02](#), at 0051-0052, paras.68-70, [CAR-OTP-2071-0093](#), at 0104; [CAR-OTP-2076-0809](#), from [00:00:00] to 00:01:10] and its transcript [CAR-OTP-2127-6702](#), at 6703, l.3-17; [CAR-OTP-2001-0437](#), at 0438; [CAR-OTP-2001-0446](#), at 0447; [CAR-OTP-2076-0802](#), at [00:00:00] to [00:01:32] and its transcript [CAR-OTP-2127-6700](#), at 6701, l.3-25.

<sup>450</sup> **P-0952**: [CAR-OTP-2107-0819-R01](#), at 0821, l.54-58, [CAR-OTP-2107-0897-R01](#), at 0906, l.315-334; **P-1719**: [CAR-OTP-2062-0039-R02](#), at 0055, para.101; [CAR-OTP-2075-0074](#), at 0335, 0337, 0338, 0340, 0341, 0344; **P-2328**: [CAR-OTP-2099-0165-R01](#), at 0199, para.181, at 0200, para.188; **P-0884**: [CAR-OTP-2072-1881-R01](#), at 1898, l.599-642; **P-1921**: [CAR-OTP-2081-0072-R02](#), at 0086, paras.72-73; [CAR-OTP-2060-0795](#), from [00:00:00] to [00:01:13] [transcript and/or translation request pending with LSU]; [CAR-OTP-2066-5312](#), from [00:00:00] to [00:01:12] and its transcripts and translation [CAR-OTP-2127-4504](#) and [CAR-OTP-2127-4593](#); [CAR-OTP-2087-9680](#), from [00:03:25] to [00:03:48] and its transcript and translation [CAR-OTP-2127-6269](#) and [CAR-OTP-2127-6392](#); [CAR-OTP-2092-2455](#), at 2457; **P-1962**: [CAR-OTP-2068-0037-R02](#), at 0063, para.125, at 0065-0066, para.149.

<sup>451</sup> **P-1962**: [CAR-OTP-2068-0037-R02](#), at 051, paras.63-67; **P-2138**: [CAR-OTP-2092-4221-R01](#), at 4246-4249, l.927-987; **P-1871**: [CAR-OTP-2064-0884-R01](#), at 0887, 0890-0891, paras.19, 31-39; [CAR-OTP-2061-1592](#), at 1652, 1654, 1680-1683; **P-1864**: [CAR-OTP-2064-0860-R02](#), at 0865-0867, paras.31-37, 39-40, 41-42.

<sup>452</sup> [CAR-OTP-2080-1472](#), from [00:00:00] to [00:01:25]; [CAR-OTP-2080-1476](#), at 1476; [CAR-OTP-2001-5386](#), at 5566.

vi. *BERBERATI –Early February 2014*

165. After the Seleka’s withdrawal from BERBERATI,<sup>453</sup> on or about 10 February 2014 a group of over 300 Anti-Balaka began their attack on the Muslim civilian population, led by [REDACTED] (“BERBERATI group”).<sup>454</sup> The attack centred on the town’s POTO-POTO, DJAMBALA, and BABA-NANI Muslim neighbourhoods,<sup>455</sup> killing at least seven Muslim civilians.<sup>456</sup> With other Anti-Balaka elements, the BERBERATI group systematically looted Muslim homes and shops.<sup>457</sup> Around 900 houses were destroyed in the 2<sup>e</sup> - 5<sup>e</sup> *arrondissements*.<sup>458</sup> The Central Mosque, TAKWA Mosque, and HAMISSOU and SAMBANDA mosques were also pillaged or severely damaged.<sup>459</sup>

<sup>453</sup> P-2326: [CAR-OTP-2100-2178-R01](#), at 2184, para.30; P-2324: [CAR-OTP-2100-2002-R01](#), at 2008, para.25.

<sup>454</sup> P-2326: [CAR-OTP-2100-2178-R01](#), at 2188-2189, paras.43, 45-47, 51; P-2133: [CAR-OTP-2093-0267-R01](#), at 0284, 0287, paras.121-123, 145; P-2324: [CAR-OTP-2100-2002-R01](#), at 2014-2015, paras.44, 48; P-2325: [CAR-OTP-2100-2386-R01](#), at 2393, 2397, 2400, paras.29, 47, 49, 61; [CAR-OTP-2030-0232](#), at 0237; P-1077: [CAR-OTP-2107-3428-R01](#), at 3436, l.265-284; P-2232: [CAR-OTP-2100-2569-R01](#), at 2596; [CAR-OTP-2001-5739](#), at 5785; P-1042: [CAR-OTP-2107-0591-R01](#), at 0606, l.487-498.

<sup>455</sup> P-2326: [CAR-OTP-2100-2178-R01](#), at 2187, 2192-2193, paras.43, 70; P-2324: [CAR-OTP-2100-2002-R01](#), at 2014-2015, para.47-48; P-2325: [CAR-OTP-2100-2386-R01](#), at 2393, para.29.

<sup>456</sup> P-2326: [CAR-OTP-2100-2178-R01](#), at 2193-2194, paras.71-74, [CAR-OTP-2100-2301-R01](#), at 2302-2307, 2309; P-2325: [CAR-OTP-2100-2386-R01](#), at 2393-2394, 2398, paras.30-31, 51-52, [CAR-OTP-2100-2408](#); P-2324: [CAR-OTP-2100-2002-R01](#), at 2023, paras.74-75, [CAR-OTP-2100-2065](#), at 2066; [CAR-OTP-2009-3587](#), at 4007-4008, Nos. 1942-1945; [CAR-OTP-2055-1987](#), at 2166; [CAR-OTP-2001-2769](#), at 2790; [CAR-OTP-2001-4257](#) at 4257; [CAR-OTP-2001-4341](#), at 4341; [CAR-OTP-2011-0133](#), at 0155; [CAR-OTP-2001-2647](#), at 2666; [CAR-OTP-2079-0680](#).

<sup>457</sup> P-2326: [CAR-OTP-2100-2178-R01](#), at 2188, 2198, paras.46, 104-106; P-2325: [CAR-OTP-2100-2386-R01](#), at 2393, 2397, 2400, paras.29, 48, 60; P-2133: [CAR-OTP-2093-0267-R01](#), at 0284, para.123.

<sup>458</sup> [CAR-OTP-2019-3524](#); [CAR-OTP-2019-3527](#); P-1719: [CAR-OTP-2062-0039-R02](#), at 0053, paras.85, 87, 90; [CAR-OTP-2079-0882](#), from [00:06:20] to [00:06:54] and its transcript and translation [CAR-OTP-2127-4507](#) and [CAR-OTP-2127-4597](#); [CAR-OTP-2001-2769](#), at 2790; [CAR-OTP-2001-2647](#), at 2666; [CAR-OTP-2079-0693](#), from [00:00:00] to [00:00:12] and its transcript [CAR-OTP-2122-9445](#); P-2325: [CAR-OTP-2100-2386-R01](#), at 2391, 2399, paras.23, 57; P-2326: [CAR-OTP-2100-2178-R01](#), at 2199, para.107; P-2324: [CAR-OTP-2100-2002-R01](#), at 2024, para.77, [CAR-OTP-2100-2070](#), [CAR-OTP-2100-2075](#), [CAR-OTP-2100-2076](#), [CAR-OTP-2100-2077](#), [CAR-OTP-2100-2078](#), [CAR-OTP-2100-2080](#), [CAR-OTP-2100-2081](#), [CAR-OTP-2100-2082](#); P-2133: [CAR-OTP-2093-0267-R01](#), at 0283-0284, paras.116, 118; [CAR-OTP-2092-1927](#); [CAR-OTP-2079-0882](#), from [00:06:20] to [00:06:54] and its transcript and translation [CAR-OTP-2127-4507](#) and [CAR-OTP-2127-4597](#); [CAR-OTP-2079-0693](#), from [00:00:00] to [00:00:12] and its transcript [CAR-OTP-2122-9445](#); [CAR-OTP-2117-0698](#), at 0699; P-1577: [CAR-OTP-2087-6935](#).

<sup>459</sup> P-2326: [CAR-OTP-2100-2178-R01](#), at 2199, para.108; P-2324: [CAR-OTP-2100-2002-R01](#), at 2024-2025, paras.79-82, [CAR-OTP-2100-2068](#), [CAR-OTP-2100-2069](#), [CAR-OTP-2100-2071](#), [CAR-OTP-2100-2072](#), [CAR-OTP-2100-2074](#), [CAR-OTP-2100-2079](#); P-2325: [CAR-OTP-2100-2386-R01](#), at 2400, paras.58-59; P-2133: [CAR-OTP-2093-0267-R01](#), at 0291, para.168; P-1719: [CAR-OTP-2062-0039-R02](#), at 0054, para.94; [CAR-OTP-2079-0610](#), at 0612; [CAR-OTP-2079-0695](#), at 0708; [CAR-OTP-2079-0893](#), at 0897.

166. Over 400 Muslims were forced to take refuge at *St Basile* Church. MISCA was called upon to evacuate them to the *Ste Anne* Church,<sup>460</sup> where they joined other Muslims fleeing nearby towns. Under siege<sup>461</sup> and under threat by the Anti-Balaka,<sup>462</sup> the number of Muslims enclaved at *Ste Anne*'s rose into the thousands over a matter of weeks.<sup>463</sup> Access to medical care and adequate sanitary facilities was limited, and the inhabitants were forced to rely on the Church and NGOs for food.<sup>464</sup> By April 2014, international forces had escorted and evacuated thousands of displaced Muslims from BERBERATI, mainly to CAMEROON.<sup>465</sup>

c) *Organisational criminal policy of targeting the Muslim population in western CAR*

i. Anti-Balaka generally

167. From the outset, emergent leaders of the Anti-Balaka movement and their elements expressed an anti-Muslim animus, subscribed to, and promoted a policy that entailed the violent targeting of the Muslim civilian population in western CAR, which, based on their religious, national or ethnic affiliation, was perceived as collectively responsible for, complicit with, and/or supportive of, the Seleka.

<sup>460</sup> P-2325: [CAR-OTP-2100-2386-R01](#), at 2394-2395, paras.34-37; P-2133: [CAR-OTP-2093-0267-R01](#), at 0284, para.117; P-2432: [CAR-OTP-2117-0645-R01](#), at 0657, para.66.

<sup>461</sup> P-2326: [CAR-OTP-2100-2178-R01](#), at 2202, para.119; [CAR-OTP-2079-0693](#), from [00:00:34] to [00:00:47] and its transcript [CAR-OTP-2122-9445](#).

<sup>462</sup> P-2324: [CAR-OTP-2100-2002-R01](#), at 2018-2019, 2027-2028, paras.59, 61-63, 89-92, [CAR-OTP-2100-2083-R01](#), [CAR-OTP-2100-2086-R01](#); P-2325: [CAR-OTP-2100-2386-R01](#), at 2396, 2398, paras.43, 50; P-2326: [CAR-OTP-2100-2178-R01](#), at 2201-2202, para.118, [CAR-OTP-2100-2312-R01](#), at 2315; [CAR-OTP-2079-0808](#); P-1074: [CAR-OTP-2094-0228-R02](#), at 0252-0253, paras.143-145; [CAR-OTP-2101-1722](#), at 1724; [CAR-OTP-2079-0882](#), from [00:07:29] to [00:07:50] and its transcript and translation [CAR-OTP-2127-4507](#) and [CAR-OTP-2127-4597](#).

<sup>463</sup> P-2324: [CAR-OTP-2100-2002-R01](#), at 2016, para.51; P-2326: [CAR-OTP-2100-2178-R01](#), at 2200, paras.115-117; P-2325: [CAR-OTP-2100-2386-R01](#), at 2396, para.45; P-2133: [CAR-OTP-2093-0267-R01](#), at 0292, para.177; P-1074: [CAR-OTP-2094-0228-R02](#), at 0252, para.145; [CAR-OTP-2001-4257](#), at 4258; [CAR-OTP-2001-2769](#), at 2790, para.4.

<sup>464</sup> P-2326: [CAR-OTP-2100-2178-R01](#), at 2201, para.117; P-2324: [CAR-OTP-2100-2002-R01](#), at 2020, paras.64-68; P-1074: [CAR-OTP-2094-0228-R02](#), at 0253, para.145; P-2325: [CAR-OTP-2100-2386-R01](#), at 2396, para.42; [CAR-OTP-2079-0882](#), from [00:07:29] to [00:07:37] and its transcript and translation [CAR-OTP-2127-4507](#) and [CAR-OTP-2127-4597](#); [CAR-OTP-2055-1987](#), at 2167; [CAR-OTP-2079-0799](#), at 0799-0800.

<sup>465</sup> [CAR-OTP-2079-0790](#) at 0792; [CAR-OTP-2069-0138](#); [CAR-OTP-2069-0150](#); [CAR-OTP-2079-0809](#), from [00:00:00] to [00:00:42] and its transcript and translation [CAR-OTP-2127-6874](#) and [CAR-OTP-2127-6879](#), at 6881, l. 3-18; P-2324: [CAR-OTP-2100-2002-R01](#), at 2021, para.69; P-2325: [CAR-OTP-2100-2386-R01](#), at 2396-2397, para.45; P-2326: [CAR-OTP-2100-2178-R01](#), at 2202, para.120; P-2328: [CAR-OTP-2099-0165-R01](#), at 0197, para.175; P-2133: [CAR-OTP-2093-0267-R01](#), at 0284, para.117; [CAR-OTP-2079-0790](#), at 0792.

168. While systematically emphasising the Christian community's victimisation of Seleka crimes and atrocities, Anti-Balaka leaders and their elements portrayed the Muslim population as traitors and collaborators. They equated the Muslims with the Seleka, even denying the legitimacy of CAR's native Muslims, who they labelled foreigners.<sup>466</sup>

169. The Criminal Policy continued the anti-Muslim rhetoric BOZIZE and his inner circle began well before the 24 March 2013 *Coup*,<sup>467</sup> as well as the anti-Muslim propaganda disseminated via radio, television, and social media.<sup>468</sup>

170. Key National Coordination members and leaders, including **NGAISSONA**, **YEKATOM**, MOKOM, Bernard MOKOM, KONATE, [REDACTED], YAGOUZOU, HOURONTI, ANDJILO, as well as their elements expressed this Criminal Policy. Several incited hatred and violence against Muslim civilians and other perceived supporters of the Seleka both in their presence and publicly.

171. Members of YEKATOM's Group, for instance, openly voiced an intention to 'slaughter' the Muslim population.<sup>469</sup> Similarly, Anti-Balaka elements in BOEING, unequivocally expressed their intention to kill Muslims, including "babies and pregnant ladies".<sup>470</sup>

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<sup>466</sup> **P-0965:** [CAR-OTP-2046-0195-R01](#), at 0203, 1.271-280; [CAR-OTP-2046-0182-R01](#), 0186-0187, 1.117-153; **P-2269:** [CAR-OTP-2111-0336-R01](#), at 0357-0358, para.161; **P-2328:** [CAR-OTP-2099-0165-R01](#), at 0188, 0197, paras.119, 172; **P-0808:** [CAR-OTP-2093-0010-R01](#), at 0017-0018, para.37, 39-40; **P-2138:** [CAR-OTP-2092-4251-R01](#), at 4255-4258, 1.140-164, 206-262; [CAR-OTP-2092-3976-R01](#), at 3996, 1.739-760; [CAR-OTP-2092-4077-R01](#), at 4089, 1.417-425, 738-767; [CAR-OTP-2092-4221-R01](#), at 4239240, 1.635-661, 673-692; [CAR-OTP-2092-4386-R01](#), at 4393-4394, 1.250-298; **P-1847:** [CAR-OTP-2061-1534-R01](#), at 1559, 1569-1570, paras.161, 224-226; **P-1962:** [CAR-OTP-2068-0037-R02](#), at 0042, para.18; **P-2133:** [CAR-OTP-2093-0267-R01](#), at 0292, para.181; **P-1074:** [CAR-OTP-2094-0228-R02](#), at 0243, para.84; **P-0876:** [CAR-OTP-2046-0473-R01](#), at 0484-0485, 1.420-446; **P-0458:** [CAR-OTP-2118-2341-R01](#), at 2347, 1.185-207, at 2350, 1.280-285; **P-2673:** [CAR-OTP-2127-6435-R01](#), at 6446, paras.71-72; **P-1721:** [CAR-OTP-2061-0044-R01](#), at 0053, para. 57; [CAR-OTP-2035-0273](#), from [00:00:20] to [00:00:44] and its transcript and translation [CAR-OTP-2107-6901](#) and [CAR-OTP-2107-7030](#), at 7032, 1.1-19; [CAR-OTP-2005-0129](#), from [00:06:00] to [00:06:52], from [00:10:41] to [00:13:48] [transcript and translation request pending with LSU]; **P-1815:** [CAR-OTP-2058-0581-R01](#), at 0588-0591, paras.38, 50; [CAR-OTP-2081-0496](#), at 0536-0537, **P-2467:** [CAR-OTP-2109-0520-R01](#), at 0522-0523, para.14; [CAR-OTP-2029-0629](#), at 0632; [CAR-OTP-2084-1327](#), from [00:01:18] to [00:01:55], from [00:03:01] to [00:04:26] and its transcript [CAR-OTP-2107-1583](#), at 1584-1585, 1.16-24, 35-50; [CAR-OTP-2065-0730](#); [CAR-OTP-2108-1643](#); [CAR-OTP-2005-0084](#) and its transcript [CAR-OTP-2127-6903](#); [CAR-OTP-2084-1295](#); [CAR-OTP-2108-0632](#), at 0646-0647.

<sup>467</sup> See above, paras.46, 48-52.

<sup>468</sup> **P-0876:** [CAR-OTP-2046-0473-R01](#), at 0482-0483, 1.332-381; **P-1847:** [CAR-OTP-2061-1534-R01](#), at 1569-1570, para.224; [CAR-OTP-2001-0409](#), at 0410, para.8; [CAR-OTP-2001-3068](#), at 3073, paras.29-30.

<sup>469</sup> See below, paras.385.

<sup>470</sup> [CAR-OTP-2049-1679](#), from [00:00:00-00:08:00] in particular see from [00:01:35] to [00:06:59] and its transcript [CAR-OTP-2107-1530](#), at 1531-1538, 1.1-263.

172. Likewise, KONATE directed ComZones and their elements to stop looting Christians and to target Muslims instead; Bernard MOKOM warned elements not to trust Muslims as “they will stab you in the back”.<sup>471</sup> Similarly, MOKOM expressed his intention to the CAR government to raze to the ground BANGUI’s predominantly Muslim neighbourhood PK5 and make it disappear.<sup>472</sup> He directed Anti-Balaka elements on the ground to punish elements if Christian civilians were killed, but not Muslims. Even after reports of Muslim civilians being killed, MOKOM directed further Anti-Balaka attacks.<sup>473</sup> Likewise MOKOM punished and threatened elements who helped Muslims by letting them go.<sup>474</sup>

173. As [REDACTED] for the group, [REDACTED] noted, “[t]hey started killing our children and wives and destroyed our homes. Revenge is good sometimes and bad sometimes. But we have to do it.”<sup>475</sup> Likewise, YAGOUZOU leveraged the threat of the Anti-Balaka “slaughtering” the “CAR Muslims” in publicly demanding DJOTODIA’s resignation,<sup>476</sup> while HOURONTI stated flatly that Muslims did not belong in CAR regardless of their nationality, holding the whole Muslim population, even small children, responsible for Seleka crimes.<sup>477</sup> ANDJILO too expressed the widely-held intention to clear the country of ‘Arabs’ and Peuhl.<sup>478</sup> He tortured elements who helped or spared Muslims.<sup>479</sup> Those under his command echoed the message, using similar anti-Muslim rhetoric and threats to make the ‘Arabs’ leave.<sup>480</sup>

<sup>471</sup> P-2232: [CAR-OTP-2090-0561-R03](#), at 0598, para.276.

<sup>472</sup> P-1074: [CAR-OTP-2094-0228-R02](#), at 0243, 0247, 0250, para.125.

<sup>473</sup> P-2232: [CAR-OTP-2100-2569-R01](#), at 2575, paras.30-31.

<sup>474</sup> P-2232: [CAR-OTP-2090-0561-R03](#), at 0585, 0590, paras.183, 220.

<sup>475</sup> [CAR-OTP-2001-4446](#), at 4448.

<sup>476</sup> [CAR-OTP-2065-5468](#), from [00:02:08] to [00:03:36] and its transcript and translation [CAR-OTP-2107-6932](#) and [CAR-OTP-2122-2303](#); [CAR-OTP-2065-5470](#), from [00:00:24] to [00:00:30] and its transcript [CAR-OTP-2107-1559](#); [CAR-OTP-2050-0648](#), from [00:00:42] to [00:01:29], [transcript and/or translation request pending with LSU].

<sup>477</sup> [CAR-OTP-2083-0332](#), from [00:02:40] to [00:03:47] and its transcript and translation [CAR-OTP-2122-9548](#) and [CAR-OTP-2122-9575](#); [CAR-OTP-2081-1770](#), from [00:05:00] to [00:18:08], see in particular at [00:13:35] to [00:18:08] and its transcript and translation [CAR-OTP-2107-6945](#) and [CAR-OTP-2122-2320](#); [CAR-OTP-2084-1279](#), from [00:00:00] to [00:01:02], and its transcript and translation [CAR-OTP-2107-6977](#), at 6978, l.4-19, and [CAR-OTP-2107-7122](#), at 7124, l.4-19.

<sup>478</sup> [CAR-OTP-2049-0141](#), from [00:00:37] to [00:01:22] and its transcript and translation [CAR-OTP-2074-1954](#) and [CAR-OTP-2074-1958](#), at 1960, l.18-35.

<sup>479</sup> [REDACTED].

<sup>480</sup> [CAR-OTP-2049-0141](#), from [00:01:22] to [00:03:15] and its transcript and translation [CAR-OTP-2074-1954](#) and [CAR-OTP-2074-1958](#); [CAR-OTP-2074-1958](#), at 1960-1962, l.36-99; P-0458: [CAR-OTP-2118-5240-R01](#), at 5265, l.820-844.

174. The Anti-Balaka's intention to target Muslim civilians violently and expel them from CAR was also pervasive among its members in the provinces, including along the PK9 – MBAIKI axis (*i.e.*, YEKATOM's Group), BOSSANGO, YALOE, GAGA, ZAWA, BOSSEMPTELE, GUEN, CARNOT, BODA, and BERBERATI.<sup>481</sup>

175. The highest ranks of the Anti-Balaka leadership expressed and promoted the group's Criminal Policy. Speaking on behalf of **NGAISSONA** at his house, [REDACTED]<sup>482</sup> put it plainly:

“we had no intention [of] killing Muslims, but we later noticed that so many Muslims in the country were supporting the Seleka rebels ... they were against us ... [t]his angered the Anti-balaka, as well as the majority-Christian population in the country, hence the attacks you're seeing on Muslims.”<sup>483</sup>

ii. NGAISSONA

176. **NGAISSONA** promoted and encouraged the Anti-Balaka organisational Criminal Policy. He referred publicly to CAR Muslims as “*Boko Haram*”.<sup>484</sup> As the group's leader,

<sup>481</sup> For the BANGUI-MBAIKI axis, see **P-1528**: [CAR-OTP-2048-0757-R03](#), at 0762-0763, paras.30-31; [CAR-OTP-2065-3188](#), from [00:00:00] to [00:01:01] and its transcript [CAR-OTP-2107-1547](#), at 1548, l.1-18; **P-2475**: [CAR-OTP-2110-0556-R03](#), at 0578, para.149. For BERBERATI see [CAR-OTP-2030-2280](#), from [00:00:00] to [00:01:05] and its transcript and translation [CAR-OTP-2107-6899](#), [CAR-OTP-2107-7027](#); **P-1077**: [CAR-OTP-2107-3636-R01](#), at 3663, l.942-949. For BOSSANGO, see [CAR-OTP-2066-5308](#), from [00:01:50] to [00:03:31] and its transcript [CAR-OTP-2107-6935](#) and its translation [CAR-OTP-2122-2307](#); [CAR-OTP-2085-2953](#), from [00:06:50] to [00:12:00] and its transcript and translation [CAR-OTP-2107-6989](#), at 6995-6997, l.173-243, and [CAR-OTP-2107-7137](#), at 7144-7146, l.173-243; **P-0966**: [CAR-OTP-2031-0241-R01](#), at 0252, para.64. For YALOE, see [CAR-OTP-2106-0684](#), from [00:02:15] to [00:04:45] its transcript and translation [CAR-OTP-2118-0015](#) and [CAR-OTP-2125-0525](#), at 0528-0529, 0530, l. 45-52, 81-90, 103-110; **P-2546**: [CAR-OTP-2114-0402-R01](#), at 0420-0422, paras.65; **P-2486**: [CAR-OTP-2116-0281-R01](#), at 0286, 0289, para.21. For BOSSEMPTELE, see [CAR-OTP-2088-0977](#), from [00:03:36] to [00:15:41], and its transcript [CAR-OTP-2089-0323](#), at 0327, 0328, 0330-0331, l.54-56, 97-98, 201-210. For BODA, see [CAR-OTP-2001-2769](#), at 2791; [CAR-OTP-2060-0795](#), from [00:01:27] to [00:02:11] [transcript and/or translation request pending with LSU]; [CAR-OTP-2074-0789](#), from [00:03:32] to [00:04:37] and its transcript and translation [CAR-OTP-2130-0317](#) and [CAR-OTP-2130-0361](#); [CAR-OTP-2066-5312](#), from [00:00:00] to [00:01:12] and its transcript and translation [CAR-OTP-2127-4504](#) and [CAR-OTP-2127-4593](#), at 4595-4596, l.1052; [CAR-OTP-2087-9680](#), from [00:04:00] to [00:07:00] and its transcript and translation [CAR-OTP-2127-6269](#) and [CAR-OTP-2127-6392](#); [CAR-OTP-2058-0573](#), from [00:27:52] to [00:29:05] and its transcript [CAR-OTP-2118-0420](#). For CARNOT, see **P-2556**: [CAR-OTP-2112-1300-R01](#), at 1309-1317, 1321, paras.66, 67, 85, 89-97, 111, 115-127, 165-174; [CAR-OTP-2012-0477](#), from [00:04:00] to [00:04:30] and its transcript and translation [CAR-OTP-2107-6886](#) and [CAR-OTP-2122-2247](#); [CAR-OTP-2019-1359](#), from [00:11:40] to [00:12:52], from [00:14:32] to [00:15:52] [transcript and/or translation request pending with LSU]. For GUEN, see **P-1964**: [CAR-OTP-2094-1755-R01](#), at 1758-1759, paras.27, 34, at 1761, para.45; **P-0595**: [CAR-OTP-2018-0761-R01](#), at 0765, paras.22, 24, at 0767, para.32, at 0768-0769, para.43.

<sup>482</sup> [CAR-OTP-2039-0019](#); **P-0808**: [CAR-OTP-2093-0010-R01](#), at 0024, para.74.

<sup>483</sup> [CAR-OTP-2072-1204](#), at 1205-1206.

<sup>484</sup> [CAR-OTP-2014-0749](#), from [00:02:09] to [00:02:41] and its transcript [CAR-OTP-2122-9374](#).

**NGAISSONA** ‘justified’ the revenge sought against the Seleka and Muslim civilians by the “population” joining the Anti-Balaka’s ranks:

*“Aussi, la population, victime des exactions des SELEKA à travers la Centrafrique depuis le 10 décembre 2012, a regagné les rangs des Antibalaka avec un esprit de vengeance envers les ex-Séléka et les sujets musulmans qui ont soutenu les Séléka durant leur occupation de la RCA.”*<sup>485</sup>

177. Further, **NGAISSONA**’s public statements consistently portrayed the Anti-Balaka as brave and self-sacrificial.<sup>486</sup> Conversely, he denounced media coverage of the Anti-Balaka as one side and unbalanced, versus “les crimes massifs commis par les sujets musulmans sur les populations non-musulmanes”,<sup>487</sup> equating the Seleka and Muslims, as a whole.

178. **NGAISSONA**’s false narrative in denying or justifying the Anti-Balaka’s crimes, promoted and encouraged the organisational Criminal Policy. He reiterated the Christian community’s victimisation by the Seleka at every opportunity, while praising the Anti-Balaka’s bravery and sacrifice as liberators.<sup>488</sup> When informed of Anti-Balaka crimes, **NGAISSONA** dismissed or disregarded the information,<sup>489</sup> tacitly justified the group’s conduct by doing nothing,<sup>490</sup> or actively denied the Anti-Balaka’s responsibility.<sup>491</sup> **NGAISSONA** simply and repeatedly deflected the Anti-Balaka’s responsibility for the serious crimes of elements within its ranks – including the killing of Muslims - as having been done by persons who were not “real” Anti-Balaka, locals and/or “fake”.<sup>492</sup> Instead of impeding and condemning the commission of crimes or effectively addressing the well-known criminality within the Anti-Balaka’s ranks, **NGAISSONA** encouraged them in

<sup>485</sup> [CAR-OTP-2025-0372](#), at 0374. **NGAISSONA** used the same language in [CAR-OTP-2025-0362](#) at 0364.

<sup>486</sup> See above, para.135.

<sup>487</sup> [CAR-OTP-2025-0396](#) at 0402.

<sup>488</sup> [CAR-OTP-2003-1076](#) at 1085-1087, 1092, 1093; [CAR-OTP-2084-0148](#) at 0148, 0149; [CAR-OTP-2025-0372](#), at 0374; [CAR-OTP-2025-0362](#) at 0364; [CAR-OTP-2025-0380](#) at 0380, 0381; **P-2432**; [CAR-OTP-2117-0645-R01](#), at 0650-0651, paras.26, 30; [CAR-OTP-2006-1210](#) at 1210; [CAR-OTP-2001-4818](#) at 4818; [CAR-OTP-2025-0396](#) at 0399; [CAR-OTP-2030-0255](#) at 0256.

<sup>489</sup> [CAR-OTP-2042-2641](#), from [00:18:38] to [00:23:10] and its transcript and translation [CAR-OTP-2107-2997](#) and [CAR-OTP-2107-2999](#), at 3001-3002, l.3-54; [CAR-OTP-2073-0870](#) from [00:06:04] to [00:06:30], and its transcript [CAR-OTP-2107-1561](#), at 1563, l.81-86.

<sup>490</sup> **P-1719**; [CAR-OTP-2062-0039-R02](#), at 0056, para. 108.

<sup>491</sup> [CAR-OTP-2042-1873](#) from [00:17:15] to [00:19:18] and its transcript [CAR-OTP-2107-1477](#); [CAR-OTP-2003-1076](#), at 1087, 1092-1093; [CAR-OTP-2006-1210](#); [CAR-OTP-2030-0255](#); [CAR-OTP-2032-0071](#); [CAR-OTP-2042-4071](#); [CAR-OTP-2084-0147](#).

<sup>492</sup> See above, para.135.

promoting the Criminal Policy and Common Purpose, including by minimising the Anti-Balaka's crimes or falsely denying them.<sup>493</sup>

179. **NGAISSONA**'s conduct in furthering a distorted public image of the Anti-Balaka to galvanise public support, perpetuated the violent, retributive, and vengeful targeting of Muslim civilians which its elements conflated with the fight against Seleka which brought them recognition.<sup>494</sup>

180. For example, while he was aware of the deplorable circumstances affecting the displaced Muslim civilians enclaved by the Anti-Balaka in different areas in western CAR, he did nothing to stop their forced enclaving, nor did he condemn the Anti-Balaka involved. Instead, **NGAISSONA** validated their actions by accepting their continued membership in the group, including by issuing Anti-Balaka ID badges; inviting them to National Coordination meetings; designating them to represent the Anti-Balaka at the July 2014 cease-fire agreements signed at the BRAZZAVILLE Summit ("2014 BRAZZAVILLE Agreement"); or later officially recognising them as Anti-Balaka Coordinators.<sup>495</sup>

181. Nor, did **NGAISSONA** stop, impede, or condemn or report Anti-Balaka perpetrators, which in turn also encouraged them to continue committing crimes.<sup>496</sup> In BANGUI, **NGAISSONA** allowed Anti-Balaka leaders notorious for their crimes, such as ANDJILO and LEBENE,<sup>497</sup> to use his BOY-RABE home as a base.<sup>498</sup> He accepted, and even promoted other Anti-Balaka leaders – who had publicly expressed hatred and intolerance towards the Muslim population, including ANDJILO, YAGOUZOU, HOURONTI, [REDACTED], MAZIMBELE, *caporal-chef* Samy URBAIN (aka "BAWA"), and **YEKATOM**, to key-positions within the Anti-Balaka.<sup>499</sup> When some of

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<sup>493</sup> [CAR-OTP-2025-0380](#), at 383; [CAR-OTP-2025-0372](#), at 0374; **P-2432**: [CAR-OTP-2117-0645-R01](#), at 0650, para.26.

<sup>494</sup> See above, paras.135-136; [CAR-OTP-2057-0963](#).

<sup>495</sup> See below, paras.127, 133, 271, 292.

<sup>496</sup> See above, para.135. See also **P-0487**: [CAR-OTP-2076-0146-R01](#), at 0159, l.454-458.

<sup>497</sup> Regarding ANDJILO and LEBENE's criminal character: see above, para.135.

<sup>498</sup> [REDACTED].

<sup>499</sup> See above, para.262. See also **P-0458**: [CAR-OTP-2118-5048-R01](#), at 5056, l.254-269; [CAR-OTP-2118-5322-R01](#), at 5328, l.181-202, at 5331, l.285-301.

them were brought to justice by the CAR authorities, **NGAISSONA** actively sought to prevent their arrests and to otherwise free them.<sup>500</sup>

iii. Anti-Muslim animus - [REDACTED]

182. [REDACTED] among individuals directly involved in structuring, equipping, and organising the Anti-Balaka, confirm the pervasive Anti-Muslim animus within the group.

183. [REDACTED], Rod Larry Martial GALLAUT (“GALLAUT”), [REDACTED], YAKETE and others openly and bluntly discuss the intended violence and revenge on all Muslims. For instance:

- on 9 August 2013,<sup>501</sup> after BOZIZE’s interview, GALLAUT and YAKETE asked people in BANGUI about the atmosphere there and the reaction of the population. They were told that the population is agitated; that it wanted to take revenge against the Muslims (“*et pour se vanger [sic] sur les musulmans*”);<sup>502</sup> and that even if BOZIZE arrived with very few men, the population would take care of the rest. YAKETE responded: “*Oui nous le savons et c'est pourquoi il a décidé de parler. On viendra comme un voleur la nuit et les rats seront capturés*”.<sup>503</sup>
- on 16 October 2013, GALLAUT responded to an interlocutor concerned for Muslim civilians in the final attack, saying: “*ah mon frère c'est ma prière pour que yaura [sic] pas assez de degats collaterales [sic]*”.<sup>504</sup>
- on 5 December 2013, FAIMINDI updated GALLAUT on the BANGUI attack: “for the moment nothing good except the reprisal on the population (“*sauf la repressail [sic] sur la population*”).”<sup>505</sup> Regarding the attack on BOSSANGOA,

<sup>500</sup> **P-0801**: [CAR-OTP-2074-2335-R01](#), at 2350, 1.580-584; **P-0884**: [CAR-OTP-2072-1814-R01](#), at 1818-1819, 1.126-180; **P-0975**: [CAR-OTP-2033-7885-R02](#), at 7892; [CAR-OTP-2072-1814-R01](#), at 1818-1819, 1.126-180; [CAR-OTP-2042-2467](#), from [00:25:01] to [00:28:05] and its transcript [CAR-OTP-2107-1489](#); [CAR-OTP-2082-0646](#), from [00:06:30] to [00:07:05] and its transcript and translation [CAR-OTP-2127-4519](#) and [CAR-OTP-2127-4611](#); [CAR-OTP-2023-2935](#), from [00:00:00] to [00:07:55] and its transcript [CAR-OTP-2107-1521](#); [CAR-OTP-2066-1601](#), at 1738.

<sup>501</sup> [CAR-OTP-2091-1804](#).

<sup>502</sup> [CAR-OTP-2102-3799](#), at 3831-3833, 19:27:49-19:39:04.

<sup>503</sup> [CAR-OTP-2101-5650](#), at 5688-5689, 13:34:17-13:40:40.

<sup>504</sup> [CAR-OTP-2102-3203](#), at 3348, 07:17:52.

<sup>505</sup> [CAR-OTP-2102-2520](#), at 2725, 15:09:35-15:32:35.

GALLAUT communicated that the Anti-Balaka of BOSSANGO 'cleaned up' BORO that morning ("**ont nettoyer** [sic] **boro ce matin**");<sup>506</sup>

- on 13 December 2013, YAKETE told an interlocutor about the Muslims in PK5: *« S'ils ne font pas attention, ça sera leur tombeau. Ils doivent comprendre qu'ils sont des étrangers et qu'ils ne peuvent pas nous dominer chez nous. (...) Nous ne sommes pas des violents de nature, mais quand on est débordé par la mal, après avoir supporté un moment, on finit par laisser éclater notre colère et c'est souvent irréversible. Nous les avons toujours considérés comme un peuple frère avec qui l'histoire coloniale nous a liés. Mais, eux par contre se comportent comme des conquérants et veulent désormais nous réduire à l'esclavage, c'est inadmissible. »*<sup>507</sup>

184. Having achieved DJOTODIA's resignation on 10 January 2014, the Anti-Balaka continued to carry out its widespread attack against Muslim civilians in villages across western CAR.<sup>508</sup> They hunted down, killed, raped, and injured members of the Muslim population, including those fleeing. Muslims all over CAR understood that they were the Anti-Balaka's target.<sup>509</sup> Anti-Balaka elements themselves referred to their attacks as "cleansing operations",<sup>510</sup> as did the international media and NGOs.<sup>511</sup> Between December 2013 and August 2014, of CAR's 16 prefectures, civilian casualties attributable to the Anti-Balaka occurred in BANGUI and 9 other prefectures in mainly western CAR. The United Nations Panel of Experts reported that the Anti-Balaka killed more than 860 civilians in this period.<sup>512</sup>

<sup>506</sup> [CAR-OTP-2101-9277](#), at 9347, 18:52:54.

<sup>507</sup> [CAR-OTP-2100-5765](#), at 5798-5799, 14:51:38-15:07:59.

See also [CAR-OTP-2066-3003](#), at 3046; [CAR-OTP-2066-1601](#), at 1632; [CAR-OTP-2066-5201](#), at 5205-5206.

<sup>508</sup> **P-2673**: [CAR-OTP-2127-6435-R01](#), at 6446, paras.69-70.

<sup>509</sup> **P-1721**: [CAR-OTP-2061-0044-R01](#), at 0053, para.62.

<sup>510</sup> [CAR-OTP-2001-0409](#), at 0410, para.8; [CAR-OTP-2001-0363](#), at 0363; [CAR-OTP-2082-0732](#), at 0735; **P-0458**: [CAR-OTP-2118-5240-R01](#), at 5252, l.395-400.

<sup>511</sup> [CAR-OTP-2001-2203](#), at 2206; [CAR-OTP-2001-4393](#); [CAR-OTP-2082-0745](#), at 0745-0746.

<sup>512</sup> [CAR-OTP-2001-5386](#), at 5574. See also e.g. [CAR-OTP-2088-1198](#); [CAR-OTP-2088-1423](#); [CAR-OTP-2088-1437-R01](#); [CAR-OTP-2088-1473](#); [CAR-OTP-2088-1485](#); [CAR-OTP-2088-1493-R01](#); [CAR-OTP-2088-1572](#).

d) *Expulsion of the Muslim population*

185. The Anti-Balaka's violent attacks on Muslim civilians in western CAR forced their flight *en masse* both within the country and to neighbouring countries.<sup>513</sup>

186. The group's intention to target the Muslim population violently was clear not only in the crimes they committed, but also the hateful rhetoric publicly disseminated, reported, espoused, and which its leadership defended.<sup>514</sup> The message to the Muslim population was clear — leave CAR or die.<sup>515</sup>

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<sup>513</sup> **P-2328:** [CAR-OTP-2099-0165-R01](#), at 0186, para.105; [CAR-OTP-2005-0084](#) from [00:00:00] to [00:24:00] and its transcript [CAR-OTP-2127-6903](#); [CAR-OTP-2107-1184](#), from [00:00:00] to [00:01:58] and its transcript and translation, [CAR-OTP-2127-4536](#) and [CAR-OTP-2127-4634](#); [CAR-OTP-2107-1185](#), from [00:00:00] to [00:02:22] and its transcript and translation [CAR-OTP-2127-4539](#), and [CAR-OTP-2127-4638](#); **P-2587:** [CAR-OTP-2120-0211-R02](#), at 0220, para.49, at 0221; [CAR-OTP-2120-0308](#), from [00:00:00] to [00:00:38] and its transcript [CAR-OTP-2118-4775](#); [CAR-OTP-2120-0312](#), from [00:00:56] to [00:01:30] and its translation [CAR-OTP-2118-4781](#); **P-2432:** [CAR-OTP-2117-0645-R01](#), at 0654, para.48; [CAR-OTP-2117-0667](#), at 0667; [CAR-OTP-2117-0681](#), at 0681; [CAR-OTP-2001-1057](#), at 1057, para.3; [CAR-OTP-2002-0504](#), at 0506; [CAR-OTP-2001-7017](#), at 7088, para.294; [CAR-OTP-2001-0379](#), at 0381; [CAR-OTP-2001-2306](#), at 2307; [CAR-OTP-2001-2197](#), at 2201; [CAR-OTP-2001-0409](#), at 0410, para.4; [CAR-OTP-2020-0019](#), at 0026, para.16; [CAR-OTP-2105-0193](#) from [00:00:44] to [00:01:09] and its transcript and translation [CAR-OTP-2122-9622](#), and [CAR-OTP-2122-9683](#); [CAR-OTP-2107-1708](#), from [00:00:00] to [02:04:19] and its transcript and translation [CAR-OTP-2127-4353](#), and [CAR-OTP-2127-4403](#); [CAR-OTP-2107-1193](#) from [00:00:00] to [00:02:33] and its transcript and translation [CAR-OTP-2127-4349](#), and [CAR-OTP-2127-4397](#); [CAR-OTP-2107-1196](#) from [00:00:00] to [00:02:13] and its transcript and translation are [CAR-OTP-2127-4351](#) and [CAR-OTP-2127-4400](#); [CAR-OTP-2012-0407](#), from [00:00:00] to [00:02:14] and its transcript and translation [CAR-OTP-2127-4484](#), [CAR-OTP-2127-4569](#); [CAR-OTP-2005-0020](#), from [xxx] to [xxx] [Translation and Transcript pending]; **P-2546:** [CAR-OTP-2114-0402-R01](#), at 0421-0422, paras.68; **P-1779:** [CAR-OTP-2087-9894-R01](#), at 9908-9912, paras.81-104; **P-2486:** [CAR-OTP-2116-0281-R01](#), at 0285-0286, 0288, paras.18-19.

<sup>514</sup> See above, paras.167-175.

<sup>515</sup> [CAR-OTP-2001-2308](#), at 2338-2339; [CAR-OTP-2001-4429](#), at 4430; **P-1721:** [CAR-OTP-2061-0044-R01](#), at 0053, para.62; [CAR-OTP-2105-0193](#) from [00:00:44] to [00:01:09] and its transcript and translation [CAR-OTP-2122-9622](#), and [CAR-OTP-2122-9683](#).

187. Thousands of Muslim civilians fled Anti-Balaka attacks. Some were evacuated in humanitarian convoys accompanied by United Nations agencies, MISCA, Sangaris, Chadian, or other forces.<sup>516</sup> Even then, the Anti-Balaka attacked protected convoys.<sup>517</sup>

188. Others fled through the bush to CAMEROON, CHAD, or other neighbouring countries. Many walked for weeks before reaching the border, all the while being hunted down by Anti-Balaka elements. More than 50 individuals interviewed by the UN Commission of Inquiry on the Central African Republic (“UNCOI”) reported the killing of fleeing Muslim civilians in the bush. These persistent attacks by the Anti-Balaka occurred near BAORO and BAOUI (NANA-MAMBERE Prefecture), BODA and BOUGERE (LOBAYE Prefecture), BOSSANGOA and BOUGUERA (OUHAM Prefecture), BOSSEMPTELE, TATTALE, BOHONG, BOCARANGA and NGOUTERE (OUHAM-PENDE Prefecture), BOSSEMBELE, DAMARA, GAGA, ZAWA and YALOKÉ (OMBELLA-M’POKO Prefecture), and CARNOT and GUEN (MAMBERE-KADEI) Prefecture.<sup>518</sup>

189. March 2014 saw nearly all of BANGUI’s Muslim residents gone, and most of western CAR’s Muslim population as refugees in CAMEROON or CHAD.<sup>519</sup> By March

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<sup>516</sup> [CAR-OTP-2055-1987](#), at 2150; [CAR-OTP-2001-2880](#), at 2881; [CAR-OTP-2001-2885](#), at 2885; [CAR-OTP-2018-0054](#), at 0054; [CAR-OTP-2002-0504](#), at 0504; [CAR-OTP-2127-4086](#), at 4086. *See also* **P-1721**: [CAR-OTP-2061-0044-R01](#), at 0052-0053, paras.55-56; **P-2205**: [CAR-OTP-2108-0465-R01](#), at 0494-0495, paras.170-175; [CAR-OTP-2101-4083](#), at 4084; [CAR-OTP-2101-4083](#), at 4084; [CAR-OTP-2105-0193](#) from [00:00:44] to [00:01:09] and its transcript and translation [CAR-OTP-2122-9622](#), and [CAR-OTP-2122-9683](#); [CAR-OTP-2107-1708](#), from [00:00:00:00] to [02:04:19] and its transcript and translation [CAR-OTP-2127-4353](#), and [CAR-OTP-2127-4403](#); **P-0342**: [CAR-OTP-2116-0216-R01](#), at 0259-0260, paras.266-275, and [CAR-OTP-2073-0327](#); [CAR-OTP-2073-0328](#); [CAR-OTP-2073-0329](#); [CAR-OTP-2073-0330](#); [CAR-OTP-2073-0331](#); [CAR-OTP-2073-0332](#); [CAR-OTP-2073-0333](#); [CAR-OTP-2073-0334](#); [CAR-OTP-2073-0335](#); [CAR-OTP-2073-0336](#); [CAR-OTP-2073-0337](#); [CAR-OTP-2073-0338](#); and [CAR-OTP-2073-0339](#).

<sup>516</sup> [CAR-OTP-2083-0437](#), at 0474.

<sup>517</sup> **P-2328**: [CAR-OTP-2099-0165-R01](#), at 0186, para.106; [CAR-OTP-2001-7017](#), at 7099-7100, paras.370-381; [CAR-OTP-2001-2885](#), at 2885; [CAR-OTP-2066-1601](#), at 1702-1703; [CAR-OTP-2107-1708](#), from [00:02:08] to [00:03:18] and its transcript and translation [CAR-OTP-2127-4353](#), and [CAR-OTP-2127-4403](#). *See also* [CAR-OTP-2107-1189](#), from [00:00:00] to [00:01:58] and its transcript and translation [CAR-OTP-2127-4345](#), and [CAR-OTP-2127-4391](#); [CAR-OTP-2005-0084](#) from [00:00:00] to [00:24:00] and its transcript at [CAR-OTP-2127-6903](#).

<sup>518</sup> [CAR-OTP-2001-7017](#), at 7097-7099, paras.355-368; [CAR-OTP-2017-0115](#), at 0122; [CAR-OTP-2001-2953](#), at 2985; [CAR-OTP-2078-0400](#), at 0404; **P-2546**: [CAR-OTP-2114-0402-R01](#), at 0426, 0432, paras.82.

<sup>519</sup> [CAR-OTP-2001-4429](#), at 4429; [CAR-OTP-2001-7145](#), at 7167; [CAR-OTP-2083-0437](#), at 0474; [CAR-OTP-2083-0433](#), at 0434; **P-1074**: [CAR-OTP-2094-0228-R02](#), at 0269, paras.229-230; *see also* [CAR-OTP-2127-4059](#), at 4059-4060; [CAR-OTP-2127-4061](#), at 4061; [CAR-OTP-2127-4062](#), at 4062; [CAR-OTP-2127-4063](#), at 4063; [CAR-OTP-2127-4064](#), at 4068 and 4071; [CAR-OTP-2127-4094](#), at 4094; [CAR-OTP-2127-4096](#), at 4098; [CAR-OTP-2127-4124](#), at 4125-4126.

2014, over 70,000 Muslim refugees had been received in CHAD.<sup>520</sup> Between December 2013 and October 2014, CAMEROON received over 120,000 Muslim refugees.<sup>521</sup> By August 2014, some 20,000 displaced Muslims were confined in nine major enclaves in western and central CAR, aware that in leaving these sites they risked attack.<sup>522</sup>

190. In June 2014, the Anti-Balaka National Coordination itself recognised reports that around ten percent of CAR's population, *i.e.* 480,000 individuals, had fled the violence and been displaced.<sup>523</sup>

*e) Sexual and gender-based violence against the Muslim population*

191. The Anti-Balaka's violent targeting of Muslims in western CAR entailed many crimes, including the perpetration of rape and other acts of sexual and gender-based violence. Muslim civilians were raped in retribution for Seleka crimes,<sup>524</sup> pursuant to the Anti-Balaka's Criminal Policy and Common Purpose.<sup>525</sup> Prior to beating and raping a Muslim girl of about 10 or 11 years of age in YALOKÉ, Anti-Balaka elements were overheard to say: "[W]e have found one of the Arab child, let's go work on her".<sup>526</sup> Another victim of the Anti-Balaka in BOGANDA was told by her rapists: "You are Muslims, it's your brothers who killed our families."<sup>527</sup> Similarly, in some instances, non-Muslims were singled out for rape by Anti-Balaka elements purely because of their association with Muslims.<sup>528</sup>

192. The Anti-Balaka committed rape during or in the aftermath of attacks on towns or villages,<sup>529</sup> as well as in circumstances of detention.<sup>530</sup> They raped the women and killed

<sup>520</sup> [CAR-OTP-2083-0429](#), at 0429.

<sup>521</sup> [CAR-OTP-2001-7145](#), at 7167.

<sup>522</sup> [CAR-OTP-2001-1057](#), at 1057, para.3; [CAR-OTP-2002-0511](#), from [00:02:06] to [00:05:04] [Transcript and Translation Request Pending]. See also **P-2546**: [CAR-OTP-2114-0402-R01](#), at 0431-0432, 0434, para.100.

<sup>523</sup> [CAR-OTP-2025-0396](#), at 0397.

<sup>524</sup> **P-2657**: [CAR-OTP-2126-0058-R01](#), at 0066, para.52.

<sup>525</sup> **P-2138**: [CAR-OTP-2092-4221-R01](#), at 4246, 1.927-987; **P-1864**: [CAR-OTP-2064-0860-R02](#), at 0866, para. 33. See also **P-0732**: [CAR-OTP-2061-0003-R01](#), at 0007-0008, para.30.

<sup>526</sup> [REDACTED].

<sup>527</sup> [REDACTED].

<sup>528</sup> **P-1962**: [CAR-OTP-2068-0037-R02](#), at 0051, paras.63-64.

<sup>529</sup> On rape committed during the attack on BOSSANGO, *see below*, Counts 41 and 42 under section VII, paras.428, 430. On rape committed in the aftermath of the attacks on YALOKÉ, *see above*, para.155; on GUEN, *see above*, para.160; and on BODA, *see above*, para.164 See also [REDACTED].

<sup>530</sup> See *above*, para.160. See also **P-2658**: [CAR-OTP-2126-0012-R01](#), at 0036-0037, para.161; **P-2200**: [CAR-OTP-2088-2146-R02](#), at 2161, para.82; **P-2049**: [CAR-OTP-2088-2173-R02](#), at 2194, para.118.

the men, particularly their husbands.<sup>531</sup> In some instances, Anti-Balaka elements forced men to watch their wives being raped, before killing the men.<sup>532</sup> In BODA for example, Anti-Balaka elements agreed that before killing a Muslim man, they should sleep with his wife first “to see what he can do about it.”<sup>533</sup> In GUEN, the Anti-Balaka separated the men from their families and summarily executed 53 of them, cutting off their ears to show to their wives.<sup>534</sup> Muslims, mainly women and children, were later detained by the Anti-Balaka in a compound, where women were threatened with rape, and at least one woman raped [REDACTED].<sup>535</sup>

f) *Destruction of mosques*

193. From September 2013 to the end of 2014, the Anti-Balaka took part in the systematic damage and destruction of mosques in western CAR. These attacks signalled to Muslims that there was no place safe, and that they should leave.<sup>536</sup>

194. The Anti-Balaka frequently sacked, pillaged or desecrated mosques before destroying them.<sup>537</sup> Some mosques in BANGUI were reduced to rubble, for instance, in the Muslim neighbourhood of FOUH.<sup>538</sup> By June 2014, only a handful of over 30 mosques in BANGUI stood.<sup>539</sup> Mosques were also targeted in villages outside BANGUI, including for example along the *Route Nationale 3* (“RN3”).<sup>540</sup>

195. The Anti-Balaka destroyed or dismantled mosques throughout CAR’s western prefectures as well. By February 2014, only one of eight mosques in YALOE

<sup>531</sup> **P-0458:** [CAR-OTP-2118-5240-R01](#), at 5242-5245, l.46-156.

<sup>532</sup> **P-1865:** [CAR-OTP-2066-0134-R01](#), at 0138, paras.25-30; **P-1864:** [CAR-OTP-2064-0860-R02](#), at 0866-0867, paras.34-42; **P-1871:** [CAR-OTP-2064-0884-R01](#), at 0891, paras.35-39.

<sup>533</sup> [REDACTED].

<sup>534</sup> [REDACTED].

<sup>535</sup> [REDACTED].

<sup>536</sup> See, in general, [CAR-OTP-2017-0115](#), at 0129-0130; [CAR-OTP-2079-0580](#), at 0581; **P-1074:** [CAR-OTP-2094-0228-R02](#), at 0244, paras.87-88; **P-2328:** [CAR-OTP-2099-0165-R01](#), at 0209, para.234; **P-1779 :** [CAR-OTP-2087-9894-R01](#), at 9907-9908, para.78.

<sup>537</sup> [CAR-OTP-2001-7017](#), at 7101, para.383; [CAR-OTP-2001-4811](#), at 4811; [CAR-OTP-2001-4472](#), at 4472-447.

<sup>538</sup> [CAR-OTP-2001-5739](#), at 5792; [CAR-OTP-2001-1075](#), at 1097, para.102; [CAR-OTP-2001-2769](#), at 2813; [CAR-OTP-2001-0310](#), at 0311; [CAR-OTP-2001-2139](#), at 2142.

<sup>539</sup> [CAR-OTP-2001-7017](#), at 7101, paras.384-385; [CAR-OTP-2001-2769](#), at 2813; [CAR-OTP-2001-1075](#), at 1097, para.102; [CAR-OTP-2079-0598](#), at 0602; [CAR-OTP-2104-0153-R01](#), at 0153-0155; **P-0475:** [CAR-OTP-2104-0116-R01](#), at 0126-0128, paras.70-97; **P-0567:** [CAR-OTP-2059-0084-R02](#), at 0105, para.142

<sup>540</sup> [CAR-OTP-2055-2611](#), from [00:11:10] to [00:11:25] and its transcript [CAR-OTP-2122-7390](#); [CAR-OTP-2001-5305](#), at 5329; [CAR-OTP-2001-2769](#), at 2813.

(OMBELLA-M'POKO Prefecture) remained standing.<sup>541</sup> Similarly, mosques were destroyed or dismantled in BOSSEMPTELE, BOALI and BOYALI (OMBELLA-M'POKO Prefecture);<sup>542</sup> in BOSSANGOA (OUHAM Prefecture),<sup>543</sup> and in BERBERATI (MAMBERE-KADEI Prefecture).<sup>544</sup>

g) *Pillaging and destruction of Muslim property*

196. As they gained control over western CAR, the Anti-Balaka routinely pillaged and damaged Muslim property in the context of their “Kill-Loot-Burn” dynamic.<sup>545</sup> Muslim houses, shops and cattle were systematically vandalised and looted, resulting in the population – particularly active in trade and cattle herding – being deprived of its main means of subsistence.<sup>546</sup> With graffiti or other markings, the Anti-Balaka claimed ownership over the vacated areas.<sup>547</sup>

197. The United Nations Institute for Training and Research’s Operational Satellite Applications Programme (“UNOSAT”) assessed that between 22 February 2014 and 6 June 2014, 871 structures were severely damaged or destroyed in BANGUI, of which 496 were in the 3<sup>e</sup> *arrondissement*, which includes PK5 and KOKORO.<sup>548</sup> Other sources, including satellite imagery analysed by Human Rights Watch (“HRW”), confirm that PK5 and other predominantly Muslim neighbourhoods, including BOUCA, PK12, and PK13, were largely destroyed between October 2013 and March 2014.<sup>549</sup> In Anti-Balaka attacks in the provinces, Muslim houses and shops were systematically looted and destroyed,

<sup>541</sup> [CAR-OTP-2001-4391](#), at 4392; [CAR-OTP-2007-0925](#), at 0976; [CAR-OTP-2001-2237](#), at 2237; **P-2546**; [CAR-OTP-2114-0402-R01](#), at 0429, para.91.

<sup>542</sup> See also [CAR-OTP-2055-1987](#), at 2155, 2163; [CAR-OTP-2001-2769](#), at 2789, 2813.

<sup>543</sup> See below, para.423.

<sup>544</sup> See below, para.165. See also [CAR-OTP-2079-0695](#), at 0708.

<sup>545</sup> [CAR-OTP-2020-0019](#), at 0029, para.29; [CAR-OTP-2001-4446](#), at 4447; [CAR-OTP-2055-1938](#), at 1940; [CAR-OTP-2055-1968](#), at 1970; [CAR-OTP-2001-7145](#), at 7160-7161; [CAR-OTP-2001-0363](#), at 0363; [CAR-OTP-2001-5739](#), at 5795.

<sup>546</sup> [CAR-OTP-2001-7017](#), at 7102-7103, paras.397-398; [CAR-OTP-2001-2043](#), at 2043, 0256; [CAR-OTP-2001-2139](#), at 2142. The Peuhl are particularly active in cattle herding: see e.g. [CAR-OTP-2069-0072](#), at 0085.

<sup>547</sup> [CAR-OTP-2057-0966](#), at 0970; [CAR-OTP-2001-2237](#), at 2238.

<sup>548</sup> [CAR-OTP-2075-0670](#); [CAR-OTP-2001-5351](#). See also [CAR-OTP-2062-0666](#); [CAR-OTP-2057-0966](#), at 0968.

<sup>549</sup> [CAR-OTP-2001-2883](#); [CAR-OTP-2001-2880](#), at 2880. See also [CAR-OTP-2001-6998](#), at 7004; [CAR-OTP-2001-7017](#), at 7103, para.399; **P-1074**; [CAR-OTP-2094-0228-R02](#), at 0243, para.85.

including in BOYALI, BOSSEMBELE, BAORO, BERBERATI, BOSSEMPTELE, BOSSANGO, GAGA, YALOE, and GUEN.<sup>550</sup>

## H. THE ARMED CONFLICT LASTED UNTIL AT LEAST THE END OF 2014

198. On 16 June 2014, **NGAISSONA** and Seleka representative Eric MASSI signed a mediation engagement to address the crises caused by both groups, under the auspices of the conflict-resolution group PARETO (“PARETO Mediation”).<sup>551</sup> On 23 July 2014, several senior Seleka commanders and the Anti-Balaka signed the 2014 BRAZZAVILLE Agreement, which was breached shortly thereafter.<sup>552</sup>

199. At the end of November 2014, **NGAISSONA** announced the conversion of the Anti-Balaka into a political party, *Parti Centrafricain pour l’Unité et le Développement* (“PCUD”).<sup>553</sup> Splitting off from MOKOM’s group, **NGAISSONA** indicated that he did not want to continue ‘faire la guerre’, and acknowledged and retained so-called ‘ex-Anti-Balaka’ who had remained loyal to him.<sup>554</sup>

200. Between December 2014 and April 2015, further peace discussions between the armed groups involved in the CAR crisis were held in NAIROBI (“NAIROBI Summit”).<sup>555</sup> MOKOM’s new ‘apolitical’<sup>556</sup> faction included Clement BAMA (“BAMA”), Sylvain BEOROFEI, YAPELET, and AZOUNOU.<sup>557</sup>

<sup>550</sup> See below, paras.364, 403, 435, 533-534, 577-579. See also above, paras.153, 154, 157 and 163. On BAORO, see e.g. [CAR-OTP-2001-2306](#), at 2306. See also [CAR-OTP-2001-7017](#), at 7104, para.404; [CAR-OTP-2001-4446](#), at 4447; [CAR-OTP-2001-2252](#), at 2254; [CAR-OTP-2001-5350](#); [CAR-OTP-2001-0463](#), at 0463; **P-1779**: [CAR-OTP-2087-9894-R01](#), at 9904, 9906, paras.62-63.

<sup>551</sup> [CAR-OTP-2001-5386](#), at 5445-5446. PARETO stands for “Paix, réconciliation et tolérance”.

<sup>552</sup> [CAR-OTP-2001-1057](#), at 1063, para.32; [CAR-OTP-2001-3405](#), at 3405-3414. By then several senior Seleka commanders had formed the FPRC under DJOTODIA’s leadership: see [CAR-OTP-2027-1631](#), at 1645; [CAR-OTP-2091-0480](#), at 0480-0484; [CAR-OTP-2001-5055](#), at 5055. Other armed groups present included the *Front Démocratique du Peuple Centrafricain* (“FDPC”), the *Révolution et Justice* (“RJ”), the *Mouvement de Libération Centrafricaine pour la Justice* (“MLCJ”), the *Union des Forces Républicaines* (“UFR”), and the *Union des Forces Républicaines Fondamentales* (“UFRF”). On the breach of the peace agreement, see **P-0801**: [CAR-OTP-2074-2401-R01](#), at 2402-2403, l.11-47; [CAR-OTP-2001-5013](#).

<sup>553</sup> [CAR-OTP-2030-0255](#), at 0255-0262; [CAR-OTP-2023-2920](#), from [00:39:15] to [01:04:00] and its transcript [CAR-OTP-2107-1519](#); [CAR-OTP-2003-1654](#), at 1723.; [CAR-OTP-2023-2931](#), from [00:02:50] to [00:03:05] and its transcript and translation [CAR-OTP-2107-2971](#) and [CAR-OTP-2118-5606](#), at 5609, l.23-40.

<sup>554</sup> See [CAR-OTP-2104-0340-R01](#), at 0344; [CAR-OTP-2062-0105](#); [CAR-OTP-2032-0067](#).

<sup>555</sup> **P-0966**: [CAR-OTP-2031-0241-R01](#), at 0259, paras.100-101; [CAR-OTP-2008-0615](#), 0615-0623; [CAR-OTP-2006-1453](#), at 1453; [CAR-OTP-2024-0012](#), at 0012; [CAR-OTP-2011-0196](#), at 0196. For a list of Anti-Balaka representatives at the NAIROBI Summit, see [CAR-OTP-2023-0032](#), at 0040.

<sup>556</sup> See e.g. [CAR-OTP-2032-0067](#).

<sup>557</sup> [CAR-OTP-2062-0078](#), at 0078-0080.

201. From 4 to 11 May 2015, the transition government held a national reconciliation conference in BANGUI (“BANGUI Forum”).<sup>558</sup>

## I. RECRUITMENT AND USE OF CHILDREN IN HOSTILITIES

202. Throughout the Relevant Period, the Anti-Balaka recruited and used children in hostilities, including under the age of 15.<sup>559</sup> Several international organisations, NGOs, and the media have reported on the presence of children in CAR armed groups, including the Anti-Balaka.<sup>560</sup> Although their exact number is not available, the UN Secretary General reported on the Anti-Balaka’s widespread child recruitment at the end of December 2013.<sup>561</sup> Similarly, MINUSCA and UNICEF identified 1,114 children associated with Anti-Balaka groups, including in BANGUI, BOALI, YALOKÉ, and BODA in the summer of 2014.<sup>562</sup> Children integrated within the Anti-Balaka however, continued to be liberated in 2015 and 2016.<sup>563</sup>

203. The Anti-Balaka exploited children’s social conditions, and their motivation for revenge for Seleka crimes against their relatives. Other children were recruited through the use of force and threats. They were trained. Some as young as age eight were used to carry out household tasks, carry water or equipment/supplies, spy on the enemy, man checkpoints, participate in combat, or as human shields. Children were given drugs to be fearless, and subjected to mental and physical harm.<sup>564</sup> For instance, some were instructed

<sup>558</sup> [CAR-OTP-2008-0599](#), at 0599-0605; [CAR-OTP-2027-1686](#), at 1702, 1725-1726; [CAR-OTP-2051-0836](#), at 0959; [CAR-OTP-2055-1987](#), at 2110.

<sup>559</sup> **P-1074**: [CAR-OTP-2094-0228-R02](#), at 0264-0265, paras.206, 210; **P-2475**: [CAR-OTP-2110-0556-R03](#), at 0563, 0566, 0580, 0584, paras.45, 69, 163, 195-196; [CAR-OTP-2122-9155](#), at 9179-9185; [CAR-OTP-2122-9074](#) from [00:00:00] to [00:04:52] [transcript and translation request pending with LSU]. *See below*, para.487.

<sup>560</sup> *See e.g.* [CAR-OTP-2001-7145](#), at 7158; [CAR-OTP-2001-2043](#), at 2052; [CAR-OTP-2001-0782](#), at 0284; [CAR-OTP-2005-0129](#), from [00:21:25] to [00:23:30] [transcript and translation request pending with LSU]; **P-1815**: [CAR-OTP-2058-0581-R01](#), at 0594-0595, para.78; [CAR-OTP-2118-0703](#), from [00:00:24] to [00:03:02] and its transcript and translation [CAR-OTP-2122-9658](#) and [CAR-OTP-2122-9734](#).

<sup>561</sup> [CAR-OTP-2001-0329](#), at 0337, para.42.

<sup>562</sup> [CAR-OTP-2001-5386](#), at 5438, para.215. *See also* [CAR-OTP-2068-0568](#), at 0570.

<sup>563</sup> [CAR-OTP-2072-1213](#), at 1214; [CAR-OTP-2072-1202](#), at 1202; [CAR-OTP-2072-1210](#), at 1210.

<sup>564</sup> [CAR-OTP-2122-9155](#), at 9179-9188; [CAR-OTP-2001-7017](#), at 7121-7123, paras.490-501; [CAR-OTP-2075-0602](#), at 0608. On the reasons why children joined the Anti-Balaka, *see also* **P-1074**: [CAR-OTP-2094-0228-R02](#), at 0265, para.208; [CAR-OTP-2066-5307](#), from [00:06:20] to [00:06:39] and from [00:20:42] to [00:21:26] and its transcript and translation [CAR-OTP-2127-6223](#), at 6226, 6232, l.100-104, 312-324 and [CAR-OTP-2127-6334](#), at 6339, 6346-6347, l.124-133, 420-439; [CAR-OTP-2073-0871](#), at 0876-0877, 0880-0081; [CAR-OTP-2055-1987](#), at 2210. On the conscription of child soldiers, *see also* **P-2475**: [CAR-OTP-2110-0556-R03](#), at 0561-0563, paras.34-40, 46-47. On the training of child soldiers, *see also* [CAR-OTP-2066-5307](#), from [00:07:05] to [00:07:15] and its transcript and translation [CAR-OTP-2127-6223](#), at 6226, l.108-111 and [CAR-OTP-2127-6334](#), at 6339, l.137-144; **P-2475**: [CAR-OTP-2110-](#)

to stab, beat, and injure captured Muslims for example, by cutting off their ears in preparation for adults to ‘finish them off’ and carry out the killings.<sup>565</sup> Some children were subject to sexual violence.<sup>566</sup>

## **J. THE CONTEXTUAL ELEMENTS OF CRIMES AGAINST HUMANITY ARE SATISFIED**

204. The crimes committed by the Anti-Balaka were part of a widespread attack directed at a civilian population and carried out under an organisational policy which entailed the violent targeting of the Muslim population in western CAR who, based on their religious, national or ethnic affiliation, were perceived as collectively responsible for, complicit with, and/or supportive of, the Seleka.

205. *First*, the evidence detailed below, demonstrates that the crimes constituted “a campaign or operation carried out against the civilian population”.<sup>567</sup>

206. *Second*, large scale Anti-Balaka attacks against the Muslim population – beginning at the latest in September 2013 in the OUHAM Prefecture and continuing in 2014 throughout the prefectures in western CAR, and BANGUI – were widespread. The large number of victims and violent targeting of the Muslim community throughout several locations comprising the Charged Crimes, illustrates the widespread nature of the attack. Further, the many crimes attributable to the group across at least five western CAR prefectures demonstrate its vast territorial breadth and scope. The attack further demonstrated a consistent pattern of violence used by Anti-Balaka groups in targeting Muslim civilians. The multiple acts which comprised the attack also involved similar conduct, tactics, and crimes, such as forced displacement, killings, rape, torture and cruel treatment, and the destruction of mosques, homes, and businesses of the Muslim

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[0556-R03](#), at 0565- 0566, 0570, paras.59-66 and 93. On the tasks given to child soldiers, *see also* [CAR-OTP-2072-1202](#), at 1203; [CAR-OTP-2075-0602](#), at 0607; [CAR-OTP-2073-0871](#), at 0877, 0883. On the use of drugs by child soldiers, *see also* [CAR-OTP-2072-1202](#), at 1203; [CAR-OTP-2066-5307](#), from [00:07:15] to [00:07:42] and from [00:11:37] to [00:12:26] and its transcript and translation [CAR-OTP-2127-6223](#), at 6226-6227, 6229, l.106-124, 201-208 and [CAR-OTP-2127-6334](#), at 6339-6340, 6342, l.135-157, 255-269; **P-2475**: [CAR-OTP-2110-0556-R03](#), at 0563, 0566, 0572, 0574, 0575, paras.45, 48, 49, 109, 123, 124, 126. On the violence inflicted upon child soldiers, *see also* [CAR-OTP-2073-0871](#), at 0877; **P-2475**: [CAR-OTP-2110-0556-R03](#), at 0565, 0566, paras.62, 63, 66, 67, 68. *See also below*, paras.484-486.

<sup>565</sup> **P-2475**: [CAR-OTP-2110-0556-R03](#), at 0569, 0572, 0575, paras.89, 91-92, 111, 125, 128-129, 132-133; **P-2233**: [CAR-OTP-2118-5902-R01](#), at 5906-5907, 5909-5910, 5918-5919, 5925, l.136-155, 210-255, 536-591, 771-793.

<sup>566</sup> [REDACTED].

<sup>567</sup> [Bemba CD](#), para.75. *See also* [Ruto CD](#), para.164.

community. This pattern of violence is consistent within any given location that was attacked by the Anti-Balaka and across the different locations.

207. *Third*, the evidence detailed above, demonstrates that the attack was executed in furtherance of the Anti-Balaka's organisational Criminal Policy.

208. From September 2013 onwards, the Anti-Balaka operated as an increasingly structured organisation. It is clear from the sheer number of attacks on villages throughout western CAR that the Anti-Balaka had resources, means, and capacity to carry out the attacks.<sup>568</sup> In addition, the systematic targeting and cleansing of Muslims is evidenced by, *inter alia*, rampant hate speech used by the Anti-Balaka publicly and in the media.<sup>569</sup> The hate speech was endorsed, and even promoted, by the Anti-Balaka leadership who systematically focused their public statements on the victimisation of the Christian community while either omitting mention of, or justifying, the crimes committed against Muslims.<sup>570</sup> The narrative conflated the enemy Seleka forces and the Muslim population in general, while also denying the legitimacy of the Central African Muslim community.<sup>571</sup> The Anti-Balaka's conduct and rhetoric betrayed its clear Criminal Policy and Common Purpose.<sup>572</sup>

## **K. THE CONTEXTUAL ELEMENTS OR WAR CRIMES ARE SATISFIED**

209. The crimes were committed in the context of a non-international armed conflict ("NIAC") in CAR which commenced in at least March 2013 between the FACA/pro-BOZIZE forces and Seleka forces, and which continued between the Anti-Balaka and the Seleka until at least December 2014.<sup>573</sup>

210. *First*, as concerns the scope of this case, the Anti-Balaka exhibited a sufficient degree of organisation. From September 2013 onwards, they engaged in sustained and

<sup>568</sup> See above, e.g., paras.93, 104, 109.

<sup>569</sup> See above, paras.168-169, 106-171.

<sup>570</sup> See above, paras.105-106, 170-175, and below para.376.

<sup>571</sup> See above, paras.60-61, 68, 168.

<sup>572</sup> See above, paras.167-179.

<sup>573</sup> This conclusion is supported by the UN Mapping Report which recently concluded that "[a]n armed conflict was in existence between the ex-Seleka and the anti-Balaka from 2013 to 2015": [CAR-OTP-2055-1987](#), at 2241.

intense armed confrontation overrunning large territory in western CAR.<sup>574</sup> Seleka forces also operated with the requisite level of organisation.

211. Following the 24 March 2013 *Coup*, Seleka forces took over existing state structures and utilised them for their own purposes. At the same time, the Seleka continued to operate under a military framework, with prominent Seleka commanders controlling groups of foot-soldiers (“elements”), within their respective bases in BANGUI and geographic areas of responsibility.<sup>575</sup> The Seleka possessed military equipment, including firearms and heavy weapons, and demonstrated the ability to plan and carry out sustained military operations over a prolonged period (including the *Coup* itself). Despite their official disbanding in mid-September 2013,<sup>576</sup> Seleka forces were not effectively disarmed or demobilised and the factions that constituted the group remained intact.<sup>577</sup> The UN estimated that Seleka numbers had grown from 5,000 fighters in March 2013<sup>578</sup> to between 15,000 and 20,000 in November 2013.<sup>579</sup>

212. *Second*, the violence in CAR remained at a sufficient level of intensity throughout the Relevant Period, having exceeded this threshold by early 2013. The UNSC passed six resolutions between January 2013 and October 2014 addressing the situation in the CAR. These resolutions recognised the existence of an armed conflict<sup>580</sup> and ultimately authorised foreign military interventions by MISCA,<sup>581</sup> FRANCE,<sup>582</sup> and the EU,<sup>583</sup> with the objective of contributing to, *inter alia*, the protection of civilians, stabilisation of the country and restoration of State authority in CAR under Chapter VII of the UN Charter.<sup>584</sup>

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<sup>574</sup> See above, paras.109-111.

<sup>575</sup> Research carried out by NGOs indicates that Seleka’s military structure divided the territory into “com-zones”, meaning command zones: [CAR-OTP-2001-2890](#), at 2905.

<sup>576</sup> The rebel force was dissolved by decree no 13.334. See [CAR-OTP-2001-0391](#), at 0394, para.7; [CAR-OTP-2001-2123](#), at 2125.

<sup>577</sup> [CAR-OTP-2001-2707](#), at 2754. See e.g., [CAR-OTP-2001-2043](#), at 2048.

<sup>578</sup> [CAR-OTP-2001-1767](#), at 1778. Some sources suggest that a significant number of Seleka fighters may be nationals of Chad or Sudan: See e.g., [CAR-OTP-2001-2769](#), at 2835.

<sup>579</sup> [CAR-OTP-2001-1102](#), at 1103, para.5.

<sup>580</sup> [CAR-OTP-2001-0294](#); [CAR-OTP-2001-0256](#) at 0258, 0260; [CAR-OTP-2001-0275](#), at 0280; [CAR-OTP-2051-0665](#), at 0671, 0674; [CAR-OTP-2001-1043](#), at 1048-1049, 1051; [CAR-OTP-2091-0488](#).

<sup>581</sup> [CAR-OTP-2001-0275](#), at 0281, para.28.

<sup>582</sup> [CAR-OTP-2001-0275](#), at 0281, para.50.

<sup>583</sup> [CAR-OTP-2001-0263](#), at 0274, para.43.

<sup>584</sup> [CAR-OTP-2001-0275](#), at 0281, 0283, paras.28, 50; [CAR-OTP-2051-0665](#), at 0666, 0667-0668, 0672, 0675, paras.2, 29, 43; [CAR-OTP-2001-1043](#), at 1051-1052, para.30; [CAR-OTP-2091-0488](#).

213. *Third*, the period encompassing the armed conflict was also marked by several ceasefire agreements between the Seleka and their opponents, including the Anti-Balaka. In January 2013, the LIBREVILLE Agreement was signed,<sup>585</sup> followed by the 2014 BRAZZAVILLE Agreement.<sup>586</sup> Further ceasefire agreements were made during the NAIROBI Summit from December 2014 to April 2015;<sup>587</sup> and the BANGUI Forum.<sup>588</sup>

## L. NEXUS BETWEEN THE ALLEGED CRIMES AND THE NIAC

214. The *nexus* between the Charged Crimes and the NIAC is evident from their commission by the same group — the Anti-Balaka — a party to the conflict.<sup>589</sup> Additionally, the crimes were carried out in furtherance of a plan to claim or reclaim power in CAR, and pursuant to an Anti-Balaka Criminal Policy and Common Purpose which entailed the violent targeting of the Muslim population in western CAR which, based on their religious, national or ethnic affiliation, was perceived as collectively responsible for, complicit with, and/or supportive of, the Seleka – another party to the conflict.<sup>590</sup> Moreover, the crimes occurred within the temporal and geographical scope of the conflict.

## V. INDIVIDUAL CRIMINAL RESPONSIBILITY OF NGAISSONA

### A. OVERVIEW

215. **NGAISSONA** was born on 30 June 1967 in BEGOUA, CAR, and was a wealthy, successful, and influential businessman.<sup>591</sup> He is of Gbaya ethnicity, a relative of, and was close to, former President BOZIZE.<sup>592</sup> As a member of BOZIZE's KNK, **NGAISSONA**

<sup>585</sup> See above, para.57.

<sup>586</sup> See above, para.198.

<sup>587</sup> See above, para.200.

<sup>588</sup> See above, para.201.

<sup>589</sup> See below, paras.393, 399-406, 419-431, 445-452, 467-475.

<sup>590</sup> See below, paras.404, 429, 450, 473.

<sup>591</sup> **P-0884**: [CAR-OTP-2072-1715-R01](#), at 1733, l.613-634; **P-0808**: [CAR-OTP-2093-0010-R01](#), at 0015-0016, para.30; **P-0966**: [CAR-OTP-2031-0241-R01](#), at 0257, para.91; **P-0889**: [CAR-OTP-2027-2290-R01](#), at 2299, para.55. See also NGAISSONA's passport application: [CAR-OTP-2017-0196](#), at 0196.

<sup>592</sup> On NGAISSONA and BOZIZE's relationship, see [CAR-OTP-2030-0984](#), at 0984; [CAR-OTP-2001-2769](#), at 2829; **P-0808**: [CAR-OTP-2093-0010-R01](#), at 0022, para.62; **P-1074**: [CAR-OTP-2094-0228-R02](#), at 0241, paras.71-72; **P-1576**: [CAR-OTP-2060-0280-R01](#), at 0287, para.41. On BOZIZE's membership of the Gbaya ethnic group, see **P-0884**: [CAR-OTP-2072-1356-R01](#), at 1375, l.644-648; [CAR-OTP-2002-0335](#), at 0338; [CAR-OTP-2001-2707](#), at 2720. On NGAISSONA's membership of the Gbaya ethnic group, see **P-0487**: [CAR-OTP-2076-0516-R03](#), at 0548, l.1144-1146; [CAR-OTP-2076-0212-R01](#), at 0217; **P-1962**: [CAR-OTP-2068-0037-R02](#), at 0055, para.86.

was elected to represent the town NANA-BAKASSA (near BOSSANGOA) in January 2011.<sup>593</sup> At the time of the 24 March 2013 *Coup*, **NGAISSONA** was the Minister of Youth in the Government of National Unity, under BOZIZE.<sup>594</sup>

216. When the Seleka advance gained momentum in December 2012, **NGAISSONA** used his considerable influence over Youth Coordinators in BANGUI and in the provinces (as a longstanding president of the Central African Football Federation and prominent KNK member).<sup>595</sup> In turn, the Youth Coordinators mobilised the youth in their respective areas.<sup>596</sup>

217. Under the auspices of two key militias — COCORA and COAC — they erected barricades and roadblocks in BANGUI and in BIMBO. They used these checkpoints to identify anyone appearing to be Muslim.<sup>597</sup> **NGAISSONA**'s appointment as Minister of Youth came as a reward for his involvement.<sup>598</sup>

218. Following the 24 March 2013 *Coup*, **NGAISSONA** fled to CAMEROON, where he met with other CAR exiles including BOZIZE, Bernard MOKOM, members of the FACA and former PG. They planned to claim and/or reclaim power in CAR, oust DJOTODIA, the Seleka regime, and their perceived supporters using, *inter alia*, the youth, pre-existing self-defence groups, new recruits, and members of the FACA and PG, later collectively known as the Anti-Balaka. MOKOM, Bernard MOKOM's son, joined in the plan from ZONGO.<sup>599</sup>

219. **NGAISSONA**, MOKOM, Bernard MOKOM and other members of BOZIZE's inner circle mobilised, organised and instrumentalised the Anti-Balaka, whom they knew were motivated to exact deadly vengeance on Muslims for Seleka atrocities; and who violently

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<sup>593</sup> On **NGAISSONA**'s appointment to the KNK, see [CAR-OTP-2018-0069](#), at 0127; [CAR-OTP-2018-0174](#), at 0231. See also **P-0487**: [CAR-OTP-2076-0348-R02](#), at 0367, l.653-656; **P-1994**: [CAR-OTP-2080-0852-R02](#), at 0865, para.94.

<sup>594</sup> See above, para.59.

<sup>595</sup> See above, para.54.

<sup>596</sup> See above, para.54.

<sup>597</sup> See above, para.55.

<sup>598</sup> [REDACTED].

<sup>599</sup> See above, paras.82-87.

targeted the Muslim civilian population in western CAR — including through the Charged Crimes,<sup>600</sup> pursuant to the group’s organisational Criminal Policy and Common Purpose.

220. In July-August 2013, **NGAISSONA**, BOZIZE, Bernard MOKOM, and others, founded FROCCA,<sup>601</sup> which advocated BOZIZE’s return to power. FROCCA promoted and disseminated an anti-Muslim agenda, urging CAR’s population to chase out so-called “islamists” and “dihadists”, claiming, *inter alia*, that local Muslims were in collaboration with Seleka forces whose intent was to “*islamis[e]*” the country.<sup>602</sup>

221. As noted above, from September 2013 at the latest, **NGAISSONA** was part of the Anti-Balaka’s leadership as a *de facto* political Coordinator.<sup>603</sup> On his 14 January 2014 return to BANGUI, he was formally designated the Anti-Balaka National General Coordinator.<sup>604</sup> He held the position throughout 2014.

222. The following sections provide the law for each of the confirmed modes of liability, followed by an analysis of **NGAISSONA**’s contributions to the confirmed crimes, and conclude in highlighting salient evidence relevant to **NGAISSONA**’s intent and knowledge.

## **B. LEGAL REQUIREMENTS**

223. **NGAISSONA** is individually criminally responsible for Counts 1-6, 8, 11-17, 24-28, 30-35, and 37-42 pursuant to article 25(3)(c) for assisting in their commission; and article 25(3)(d) for contributing in any other way to their commission by the Anti-Balaka acting with a common criminal purpose.<sup>605</sup>

### *a) Article 25(3)(c)*

224. Article 25(3)(c) liability entails the following objective and subjective requirements: (a) the person assisted in the commission or attempted commission of a crime; (b) the

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<sup>600</sup> See above, paras.167-175.

<sup>601</sup> See above, paras.96-100.

<sup>602</sup> See above, paras.167-175.

<sup>603</sup> See above, para.6.

<sup>604</sup> See below, para.258.

<sup>605</sup> See Confirmation Decision, pp.111-112.

person acted with the purpose of facilitating the commission of a crime; and (c) the person had the requisite intent and knowledge under article 30.<sup>606</sup>

**a. Objective elements: the conduct must aid, abet, or otherwise assist the commission or attempted commission of a crime**

225. The *actus reus* under article 25(3)(c) requires that a person “aids, abets or otherwise assists” in the commission or attempted commission of a crime. The assistance can take many forms. It may be practical or material (which includes the provision of the means for the commission of the crime),<sup>607</sup> or consist of moral or psychological support (which may take the form of encouragement or even sympathy for the commission of the crime).<sup>608</sup>

226. Such encouragement or support need not be explicit<sup>609</sup> and may be provided through an accused’s “physical presence at meetings”, and by “tacitly approving” the impugned, illicit activities.<sup>610</sup> The accused need not be personally present during the commission of the offence.<sup>611</sup>

227. Moreover, as the Appeals Chamber observed in the *Bemba, et al.* case, “[n]othing in [article 25(3)(c)] requires that an accessory aid, abet or otherwise assist a specific person, whether considered a ‘principal perpetrator’, ‘intermediary perpetrator’, or otherwise; rather, individual criminal liability under article 25(3)(c) of the Statute is established in reference to the assistance in the commission or attempted commission of a *crime*”.<sup>612</sup> Hence, the Appeals Chamber upheld the Trial Chamber’s conviction under article 25(3)(c) of an accused person who provided encouragement and moral support to an intermediary,

<sup>606</sup> [Al Mahdi CD](#), para.26; [Ongwen CD](#), para.43; *Prosecutor v. Bemba, et al.* (‘*Bemba, et al. case*’), Judgment pursuant to Article 74 of the Statute, ICC-01/05-01/13-1989-Red (“[Bemba, et al TJ](#)”), para.83.

<sup>607</sup> [Bemba, et al TJ](#), para.88.

<sup>608</sup> [Bemba, et al TJ](#), para.89, 867, 921 and *Prosecutor v. Bemba, et al.* (‘*Bemba, et al. case*’), 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”, ICC-01/05-01/13-2275-Red (“[Bemba, et al AJ](#)”), para.1330. See also *Prosecutor v. Šainović et al.*, Judgement, Case No. IT-05-87-A, 23 January 2014, (“[Šainović et al. AJ](#)”), paras.1626, 1649; *Prosecutor v. Furundžija*, Judgement, Case No. IT-95-17/1-T, 10 December 1998, (“[Furundžija TJ](#)”), paras.233-235; [Akayesu TJ](#), para.484.

<sup>609</sup> [Bemba, et al TJ](#), para.89.

<sup>610</sup> [Bemba, et al AJ](#), para.1328. Under certain circumstances, the act of being present at the crime scene (or in its vicinity) as a “silent spectator” can be construed as tacit approval or encouragement of the crime: [Bemba, et al TJ](#), para.89. See also [Šainović et al. AJ](#), para.1687; *Prosecutor v. Augustin Ngirabatware*, Judgement, Case No. MICT-12-29-A, 18 December 2014, (“[Ngirabatware AJ](#)”), para.150; *Prosecutor v. Grégoire Ndahimana*, Case No. ICTR-01-68, 16 December 2013, (“[Ndahimana AJ](#)”), para.147.

<sup>611</sup> [Bemba, et al TJ](#), para.96.

<sup>612</sup> [Bemba, et al AJ](#), paras.1328-1329.

and not to the direct perpetrator, because his conduct assisted the commission of the crime.<sup>613</sup> Moreover, establishing liability under this provision is independent of whether the principal perpetrator was identified, charged or convicted.<sup>614</sup>

228. Further, assistance in the commission of a crime may be provided before, during or after its perpetration.<sup>615</sup> Assistance after the commission of a crime is contingent on a prior offer or agreement of assistance between the principal and the accessory that the latter would lend assistance after the commission of the crime.<sup>616</sup>

229. The degree of assistance is not qualified and the person's contribution does not require the meeting of any specific threshold.<sup>617</sup> An accused's assistance therefore need not be substantial.<sup>618</sup>

230. Further, the accused's assistance in the commission of the crime need not have been "causal" in the sense of having had an effect on its commission.<sup>619</sup> As recently held by the Appeals Chamber, "the text of [article 25(3)(c)] only requires that *the assistance in the commission* (or attempted commission) of the crime be provided for the purpose of facilitating such commission without indicating whether the conduct must have also had an effect on the commission of the offence".<sup>620</sup>

## **b. Subjective elements**

231. Article 25(3)(c) provides that the accused aids, abets, or otherwise assists in the commission of the crime "for the purpose of facilitating the commission of such crime". Accordingly, the accused must have lent his or her assistance "with the aim of facilitating the commission of the crime".<sup>621</sup> This subjective requirement relates to the accused's

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<sup>613</sup> [Bemba, et al AJ](#), para.1330; *Bemba, et al TJ*, paras.867-868.

<sup>614</sup> [Bemba, et al TJ](#), para.84; *Prosecutor v. Al Hassan* ("Al Hassan case"), Rectificatif à la Décision relative à la confirmation des charges portées contre Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud, ICC-01/12-01/18-461-Corr-Red, ("[Al Hassan CD](#)"), para.898.

<sup>615</sup> [Bemba, et al TJ](#), para.96. See also [Blaškić AJ](#), para.48; [Mrkšić AJ](#), para.81.

<sup>616</sup> In this case, the principal perpetrator committed the crime, knowing that he or she would receive assistance in the aftermath ([Bemba, et al AJ](#), para.1399).

<sup>617</sup> [Bemba, et al TJ](#), para.93.

<sup>618</sup> [Bemba, et al AJ](#), paras.1326-1327; [Bemba, et al TJ](#), para.93.

<sup>619</sup> [Bemba, et al AJ](#), para.1326. *Contra* [Bemba, et al TJ](#), paras.90, 94.

<sup>620</sup> [Bemba, et al AJ](#), para.1326 (emphasis added).

<sup>621</sup> [Bemba, et al TJ](#), para.97; [Mbarushimana CD](#), para.274.

facilitation of the crime, and not the crime itself.<sup>622</sup> Thus, the accused need not have specifically intended the commission of the crime.

232. In addition, in accordance with article 30, the accused must have intent with regard to the crime and knowledge.<sup>623</sup>

233. “Intent” under article 30(2)(b) requires that the accused must at least be aware that the principal perpetrator’s crime would occur in the ordinary course of events.<sup>624</sup> This does not mean that the accused need know all of the details of the crime in which they assisted, or the factual circumstances of its commission.<sup>625</sup> To meet the threshold under article 30(2)(b), it is sufficient to establish that the accused was aware that the *principal* (whether an individual or a group (i.e., the “Anti-Balaka”<sup>626</sup>) would, in the ordinary course of events, commit the *type* of offences charged.<sup>627</sup> Further, while article 30(3) requires the accused’s awareness, that the circumstances relevant to the Charged Crimes existed, or that the types of crimes would occur in the ordinary course of events, it is not necessary that the principal perpetrator was aware of the accused’s existence or assistance in the commission of the crime.<sup>628</sup>

b) *Article 25(3)(d)*

234. Article 25(3)(d) liability requires the following objective and subjective elements: (i) crimes within the jurisdiction of the Court were attempted or committed; (ii) a group of persons, acting with a common purpose, attempted or committed these crimes; (iii) the accused contributed to the crimes in any way other than those set out in article 25(3)(a) to (c); (iv) the contribution was intentional; and (v) the contribution was made either with the

<sup>622</sup> [Bemba, et al TJ](#), para.97.

<sup>623</sup> See [Bemba, et al TJ](#), para.98; [Mbarushimana CD](#), para.274; *Prosecutor v. Mathieu Ngudjolo Chui* (‘Ngudjolo case’), Judgment pursuant to Article 74 of the Statute - Concurring Opinion of Judge Christine Van den Wyngaert, ICC-01/04-02-12-4, (“[Conc. Op. Judge Van den Wyngaert](#)”), para.25.

<sup>624</sup> [Bemba, et al TJ](#), para.98.

<sup>625</sup> [Bemba, et al AJ](#), para.1400; [Bemba, et al TJ](#), para.98. See also [Karera AJ](#), para.321; [Blaškić AJ](#), para.50.

<sup>626</sup> See Confirmation Decision, pp.105, 111.

<sup>627</sup> [Bemba, et al AJ](#), para.1308. Albeit in the context of joint criminal enterprise, see e.g., [Šainović et al. AJ](#), para.1491; *Prosecutor v. Kvočka et al*, IT-98-30/1-A, Judgement, 28 February 2005 (“[Kvočka et al. AJ](#)”), para.276.

<sup>628</sup> [Bemba, et al AJ](#), para.1330.

aim of furthering the criminal activity or criminal purpose of the group, or in the knowledge of the intention of the group to commit the crime.<sup>629</sup>

**a. A crime within the jurisdiction of the Court was attempted or committed**

235. A crime within the Court’s jurisdiction must have been committed or attempted. For the latter, it is not necessary that the material elements of the crime be completed, as long as an attempt to commit such a crime pursuant to article 25(3)(f) is made.

**b. A group of persons acting with a common purpose attempted to commit or committed this crime**

236. The Prosecution must establish “the existence of a group of persons driven by and acting with a common purpose”.<sup>630</sup>

237. A group may comprise a plurality of individuals as well as a collectivity of groups (*i.e.*, subgroups). A “group” need not be either well or formally organised, or “incorporated into a military, political or administrative structure.”<sup>631</sup> The members of the group of persons can, to some extent, change over time.<sup>632</sup>

238. The accused need not be a member of the group acting with a common purpose.<sup>633</sup> However, the person (or subgroup) that *committed* the crime must belong to the group.<sup>634</sup>

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<sup>629</sup> *Prosecutor v. Al Mahdi (“Al Mahdi”)*, Decision on the Confirmation of Charges against Ahmad Al Faqi Al Mahdi, ICC-01/12-01/15-84-Red, (“[Al Mahdi CD](#)”), para.27; [Onqwen CD](#), para.44; [Ruto CD](#), para.351; *Prosecutor v. William Samoei Ruto, Henry Kiprono Kosgey and Joshua Arap Sang (“Ruto case”)*, Decision on the Prosecutor’s Application for Summons to Appear for William Samoei Ruto, Henry Kiprono Kosgey and Joshua Arap Sang, ICC-01/09-01/11-1 (“[Ruto Summons](#)”), para.51; *Prosecutor v. Uhuru Muigai Kenyatta and Mohammed Hussein Ali (“Kenyatta case”)*, Decision on the Prosecutor’s Application for Summonses to Appear for Francis Kirimi Muthaura, Uhuru Muigai Kenyatta and Mohammed Hussein Ali, ICC-01/09-02/11-1, (“[Kenyatta Summons](#)”), para.47; [Mbarushimana CD](#), paras.268-289; *Prosecutor v. Callixte Mbarushimana (“Mbarushimana case”)*, Decision on the Prosecutor’s Application for a Warrant of Arrest against Callixte Mbarushimana, ICC-01/04-01/10-1 (“[Mbarushimana Warrant of Arrest](#)”), para. 39, re-classified as public pursuant to ICC-01/04-01/10-7.

<sup>630</sup> [Katanga TJ](#), para.1624.

<sup>631</sup> [Katanga TJ](#), para.1631.

<sup>632</sup> [Gbagbo CD](#), para.254; [Gbagbo CD, Diss.Op. Judge Van den Wyngaert](#), para.9; [Blé Goudé CD](#), para.176.

<sup>633</sup> [Mbarushimana CD](#), para.275; [Katanga TJ](#), para.1631.

<sup>634</sup> [Katanga TJ](#), paras.1624, 1628.

239. The concept of “common purpose” is similar to the statutory requirement of common plan under article 25(3)(a),<sup>635</sup> in the sense that the common purpose must include an “element of criminality”, but does not need to be specifically directed at the commission of a crime.<sup>636</sup> Hence, a group with a legitimate political and strategic goal which also entails criminality of the execution of a crime may constitute a group of persons acting with a common purpose within the meaning of article 25(3)(d).<sup>637</sup>

240. However, unlike article 25(3)(a), the relevant material fact to be established under article 25(3)(d) is not the existence of an *agreement* among specific individuals, but the *collective or shared criminal intent* of a group of persons.<sup>638</sup> This is consistent with article 25(3)(d)(ii) that refers to the “intention of the group”. Thus, unlike article 25(3)(a),<sup>639</sup> article 25(3)(d) does not justify the reciprocal attribution of the respective acts among its members.<sup>640</sup> However, under article 25(3)(d), a single act or omission may contribute to the commission of several crimes. Similarly, a single act or omission may contribute to the commission of a crime in several ways.

241. A common purpose must be defined by specifying its scope, the criminal element, the geographic and temporal purview, the type, the origins or characteristics of the victims pursued, and the identity of the members of the group, although not each of them needs to be identified by name.<sup>641</sup> A common purpose need not be express,<sup>642</sup> and may be inferred from *inter alia*, “the group’s collective decisions and actions or its omissions”,<sup>643</sup> or its “concerted action”.<sup>644</sup> It may also be inferred from the intention of the leader or leaders of the group, provided they played a significant role in that group, such as being involved in

<sup>635</sup> [Mbarushimana CD](#), para.271; [Katanga TJ](#), para.1625. See also *Prosecutor v. Thomas Lubanga Dyilo* (“*Lubanga case*”), Decision on the confirmation of charges, ICC-01/04-01/06-803-tEN, (“[Lubanga CD](#)”), paras.343-345.

<sup>636</sup> [Katanga TJ](#), para.1627; [Mbarushimana CD](#), para.271; [Lubanga CD](#), para.344.

<sup>637</sup> [Katanga TJ](#), para.1627.

<sup>638</sup> See e.g. [Katanga TJ](#), para.1626: referring to “the criminal purpose of the group”; para.1627: referring to a “group acting with a common purpose” and “shared intent”; para.1630: referring to “the crime which the group harboured the intention to commit”. Trial Chamber II in the *Katanga* case interpreted the concept of “common purpose” with reference to article 30(2)(b): [Katanga TJ](#), fn.3592.

<sup>639</sup> [Lubanga AJ](#), para.445; [Bemba, et al AJ](#), para.818; [Bemba, et al TJ](#), para.65.

<sup>640</sup> [Katanga TJ](#), paras.1619, 1629.

<sup>641</sup> [Katanga TJ](#), para.1626.

<sup>642</sup> [Mbarushimana CD](#), para.271; [Lubanga CD](#), para.345. See also *Prosecutor v. Dusko Tadic et al.*, Judgement, Case No IT-94-1-A, 15 July 1999, (“[Tadić AJ](#)”), para. 227 (within the context of “joint criminal enterprise”).

<sup>643</sup> [Katanga TJ](#), para.1627.

<sup>644</sup> [Katanga TJ](#), para.1626; [Mbarushimana CD](#), para.271. See also [Tadić AJ](#), para.227; [Lubanga CD](#), para. 344 (within the context of “joint criminal enterprise”).

its creation, leading the group, or organising its criminal activities.<sup>645</sup> Moreover, a common purpose may materialise extemporaneously and does not need to have been previously arranged or formulated.<sup>646</sup>

242. Further, the legal requirement that the persons comprising the group share in the common purpose does not entail that any given member *directly* perpetrate the material elements of the crimes. Trial Chamber II in the *Katanga* case accepted that members of the group acting with a common purpose may commit a crime in any manner enumerated in article 25(3)(a).<sup>647</sup> However, the term “commit”, as used in the provision, should not be understood to be limited only to situations where a crime is imputable to a member of the group under article 25(3)(a).<sup>648</sup> “Commit” must be interpreted broadly and in accordance with article 25(2), in the sense that it entails other forms of liability under article 25 inherent to the group’s collective conduct.<sup>649</sup> Article 25(3)(d) responsibility therefore attaches as long as the accused contributes to a crime within the common purpose that is imputable to the group through the *participation* of at least one member under any article 25 mode of liability. For example, criminal responsibility can attach under article 25(3)(d) for contributing to a crime directly perpetrated by persons who do not share the common purpose, where they are effectively an instrument or tool of the group.

**c. The Accused must contribute to the crime in any way other than those set out in article 25(3)(a) to (c)**

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<sup>645</sup> [Ruto CD](#), para.352.

<sup>646</sup> [Katanga TJ](#), para.1626. See also [Tadić AJ](#), para.227 (within the context of “joint criminal enterprise”).

<sup>647</sup> [Katanga TJ](#), para.1628.

<sup>648</sup> Respectively, *contra*, [Gbagbo CD, Diss.Op. Judge Van den Wyngaert](#), paras.8-9; and *contra*, ICC-01/04-01/07-3436, para.1628, citing [Mbarushimana CD](#), Diss. Op. Judge Monageng, para.55. The Prosecution notes that Judge Monageng’s Diss. Op. relies on ICTY jurisprudence which stands for the opposite proposition (*Prosecutor v. Radoslav Brdanin*, Judgement, Case No IT-99-36, 3 April 2007, ([“Brdjanin AJ”](#)), paras.410, 413, 430).

<sup>649</sup> The term “commission” is used in other parts of the Statute as broadly encompassing all modes of liability covered in article 25(3). See e.g., articles 6(1), 7(1), 8(1) and 14(1) of the Statute. A similar understanding applies in defining “commission” in the context of holding commanders/superiors responsible for their subordinates’ “commission” of crimes under article 28 of the Statute. Some of the rationales for doing so under command/superior responsibility are of equal validity in the context of article 25(3)(d). For instance, it is meant to “[p]ut and end to [widespread violations of international humanitarian law] and [o]f tak[ing] measures to bring to justice the persons who are responsible for them.” See *Prosecutor v. Blagojević*, Case No. IT-02-60-A, Judgement, 9 May 2007, ([“Blagojević & Jokic AJ”](#)), para.281. See also [Nahimana et al., AJ](#), para.485.

243. Article 25(3)(d) requires that an accused contributes to the commission or attempted commission of a crime “in any other way” than that captured under articles 25(3)(a)-(c).<sup>650</sup> This entails “the lowest objective threshold for participation according to article 25 [...]”.<sup>651</sup> Accordingly, *any contribution to the crime* is sufficient.<sup>652</sup>

244. Under article 25(3)(d), it needs to be established that the accused’s conduct influenced or had a bearing on the occurrence of the crime or the manner of its commission.<sup>653</sup> It is not necessary to show that the crime was contingent on, or even determined by the accused’s contribution.<sup>654</sup> Once such influence or bearing on the crime is established, the level or degree of contribution does not need to be qualified further.<sup>655</sup> In other words, the threshold under article 25(3)(d) only excludes contributions that are “inconsequential”, “immaterial”, or “neutral” to the commission of the crime.<sup>656</sup>

245. Further, the contribution to the crime may be made directly through the physical perpetrators themselves or through other members of the group acting with a common purpose.<sup>657</sup> As Trial Chamber II found in the *Katanga* case, “a *direct* nexus between the

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<sup>650</sup> Article 25(3)(d). See [Ruto CD](#), para.354; [Mbarushimana CD](#), para.27. See also Kai Ambos, “Article 25”, in Triffterer (ed.), *Commentary on the Rome Statute of the International Criminal Court*, (C.H.Beck-Hart-Nomos, 1999), p.484, [21]; Albin Eser, “Individual Criminal Responsibility”, in Cassese A., Gaeta P., Jones J.R.W.D., *The Rome Statute of the International Criminal Court*, Vol. I, (Oxford, Oxford University Press, 2002), paras.802-803.

<sup>651</sup> [Ruto CD](#), para.354.

<sup>652</sup> See [Ruto CD](#), para.354. This is also corroborated by Judge Fernandez, the only judge from the Appeals Chamber who expressed herself on the merits of the matter (see *Prosecutor v. Callixte Mbarushimana* (‘*Mbarushimana case*’), Judgment on the appeal of the Prosecutor against the decision of Pre-Trial Chamber I of 16 December 2011 entitled “Decision on the confirmation of charges”, ICC-01/04-01/10-514 OA4, (“[Mbarushimana AJ, Sep.Op. Judge Fernandez](#)”), paras.8-15). See *contra*, [Mbarushimana CD](#), paras.276-285 (requiring the level of contribution to be “significant”).

<sup>653</sup> [Katanga TJ](#), paras.1632-1633.

<sup>654</sup> [Katanga TJ](#), para.1633.

<sup>655</sup> [Ruto CD](#), para.354; [Al Mahdi CD](#), para.27; [Ongwen CD](#), para.44; [Mbarushimana AJ, Sep.Op. Judge Fernandez](#), paras.8-15. Although Trial Chamber II in the *Katanga* case refers to a “significant” contribution, it does not require the contribution to be qualified beyond the need to have an impact on the commission of the crime ([Katanga TJ](#), paras.1632-1633). Similarly, Pre-Trial Chamber I in the *Mbarushimana* case requires the level of contribution under article 25(3)(d) to be “significant”. However, it appears that in substance it does not elevate the level of contribution beyond the requirement that the contribution has an impact on the commission of the crime. In fact, that decision merely wants to avoid an outcome whereby “every landlord, every grocer, every utility provider, every secretary, every janitor or even every taxpayer who does anything which contributes to a group committing international crimes could satisfy the elements of 25(3)(d) liability for their infinitesimal contribution to the crimes committed.” ([Mbarushimana CD](#), para.277). To require a contribution to be causal to the commission of the crime addresses this concern.

<sup>656</sup> [Katanga TJ](#), para.1632; [Mbarushimana AJ, Sep.Op. Judge Fernandez](#), paras.8-15.

<sup>657</sup> [Katanga TJ](#), para.1635.

conduct of the accessory and that of the physical perpetrator need not be established"<sup>658</sup> since "it is *the effect* of the conduct on the realisation of the crime which counts".<sup>659</sup> The accused may be remote from the crime site,<sup>660</sup> and his or her contribution may be made prior, during, or after the commission of the crime. The latter is contingent on proof of a prior understanding between the accused and the group that the accused would provide a particular contribution.<sup>661</sup> The contribution can consist of an act or an omission, where the accused has a duty to act and need not be criminal *per se*.

246. The accused's contribution may take different forms, and may be linked to the objective but also subjective elements of the crimes. For example, an accused's actions in setting out a group or providing resources may entail material support to the commission of crimes, but also moral or psychological support or encouragement to their commission.<sup>662</sup>

#### **d. The contribution must be intentional**

247. Article 25(3)(d) expressly provides that "contribution shall be intentional".<sup>663</sup> The *mens rea* requirement for article 25(3)(d) deviates from the general rule of article 30.<sup>664</sup> Accordingly, the requirement that the accused's contribution was intentional applies only to their conduct, and not its consequence. Nor, does it apply to the activity, purpose or criminal intention of the group.<sup>665</sup> Thus, the accused must mean to engage in the relevant conduct constituting the contribution to the group crime, in the sense that his or her actions or omissions were deliberate and made with awareness of the relevant conduct.<sup>666</sup>

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<sup>658</sup> [Katanga TJ](#), para.1635 (emphasis in original).

<sup>659</sup> [Katanga TJ](#), para.1635 (emphasis added). Moreover, the link is to the *type of crimes* and not to the concrete underlying victim incidents. See ICC-01/12-01/18-461-Corr-Red, para. 950.

<sup>660</sup> [Katanga TJ](#), para.1636.

<sup>661</sup> [Mbarushimana CD](#), para.287. By analogy to article 25(3)(c), see also [Bemba, et al AJ](#), para.1399: In this case, the principal perpetrator committed the crime, knowing that he or she would receive assistance in the aftermath.

<sup>662</sup> [Katanga TJ](#), para.1635, fn.3598. See also [Mbarushimana CD, Dissenting Opinion of Judge Monageng](#), paras.82, 87, 99-101.

<sup>664</sup> [Katanga TJ](#), para.1637.

<sup>665</sup> [Katanga TJ](#), para.1638; [Mbarushimana CD](#), para.288.

<sup>666</sup> [Katanga TJ](#), paras.1638-1639.

**e. The contribution was made (a) with the aim of furthering the criminal purpose or activity of the group; or (b) in the knowledge of the intention of the group to commit the crimes**

248. Under article 25(3)(d)(i), the accused must know of the group's criminal activity or criminal purpose and have made the relevant contribution with the aim of furthering either.<sup>667</sup> The subjective standard does not relate to the crime itself.<sup>668</sup> Rather, it is satisfied upon showing the accused's "specific intention to promote the practical acts and ideological objectives of the group".<sup>669</sup> Thus, the contribution need not be intended to facilitate the specific crime, nor is it required that the accused satisfies the mental element for its commission.<sup>670</sup>

249. Under article 25(3)(d)(ii), the accused's knowledge "of the intention of the group must be defined with reference to article 30(3) of the Statute: the accused must be aware that the intention existed when engaging in the conduct which constituted his or her contribution."<sup>671</sup> Thus, the accused must be aware that either: (a) *the group* — as opposed to its individual members or sub-groups — meant to cause the crime; or (b) *the group* was aware that the crime would be committed in the ordinary course of events.<sup>672</sup> Although such knowledge must be shown for each *type* of crime committed or attempted by the group,<sup>673</sup> this does not mean that the accused must be aware of all the details of the relevant crimes. Instead, knowledge of the group's intention with respect to the *type* of crimes

<sup>667</sup> By analogy, see [Bemba, et al TJ](#), para.97; [Mbarushimana CD](#), para.274.

<sup>668</sup> See e.g. [Bemba, et al TJ](#), para.97; see also [Mbarushimana CD](#), para.289 (observing that this stands in sharp contrast with liability under article 25(3)(a), where the suspect must meet the subjective elements of the crimes charged).

<sup>669</sup> Ambos, K. Treatise on International Criminal Law: Volume 1: Foundations and General Part, Oxford University Press, (2013), p.169 (*citing* Conc. Eser, 'International Criminal Responsibility' in Cassese, Gaeta, and Jones, *Rome Statute* (2002) p.103, with fn.155). See also Triffterer, O. Commentary on the Rome Statute of the International Criminal Court, 2nd Ed., Munchen/Oxford/Baden-Baden: C.H. Beck/Hart/Nomos (2008), p.759.

<sup>670</sup> [Mbarushimana CD](#), para.289.

<sup>671</sup> [Katanga TJ](#), para.1641.

<sup>672</sup> [Katanga TJ](#), para.1641. See e.g. [Bemba, et al AJ](#), para. 1308 (interpreting article 30 in the context of co-perpetration under article 25(3)(a)). In the context of joint criminal enterprise, see e.g., [Šainović, et al. AJ](#), para.1491 (in the context of joint criminal enterprise); [Kvočka, et al. AJ](#), para.276 (same); [Brđanin AJ](#), paras.418, 420-425 (same); *Prosecutor v. Brima, et al*, SCSL-2004-16-A, Judgement, 22 February 2008, (["Brima, et al AJ"](#)), para.76 (same).

<sup>673</sup> [Katanga TJ](#), para.1642.

suffices.<sup>674</sup> There is no logical reason why an accused must know the specifics of the commission of the crimes with any greater precision than that required for aiding and abetting; namely, its essential elements.<sup>675</sup>

### C. NGAISSONA'S CONTRIBUTIONS

250. As described below, **NGAISSONA** assisted Anti-Balaka members in committing the crimes with the aim of facilitating their commission. He was also aware that Anti-Balaka elements would, in the ordinary course of events, commit these types of crimes.

251. **NGAISSONA** also intentionally contributed to the commission of the crimes by the Anti-Balaka acting pursuant to the Criminal Policy and Common Purpose which, as noted, entailed violently targeting the Muslim civilian population in western CAR, based on their religious, national or ethnic affiliation, and their perceived collective responsibility for, complicity with, and/or support of, the Seleka. Alternatively, **NGAISSONA**'s contributions to the crimes committed pursuant to the Criminal Policy and Common Purpose by the Anti-Balaka were made with the aim of furthering its criminal activity or purpose, or in the knowledge of its intention to commit such crimes.

252. Concretely, **NGAISSONA** contributed to the Charged Crimes (i) by taking steps to structure the Anti-Balaka; (ii) by financing the Anti-Balaka, including for the purchase of weapons; (iii) by issuing instructions to Anti-Balaka members, including with regard to the 5 December Attack and attacks preceding it; and (iv) by liaising with Anti-Balaka members exercising key functions, including Bernard MOKOM and MOKOM.<sup>676</sup> Taking into account the totality of the evidence, **NGAISSONA**'s contributions promoted and encouraged the Anti-Balaka's organisational Criminal Policy, its Common Purpose, and improved its operational capacity to commit the Charged Crimes.

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<sup>674</sup> See also the Appeals Chamber's interpretation of article 30 in the context of co-perpetration under article 25(3)(a): [Bemba, et al AJ](#), para.1308. In the context of joint criminal enterprise, see e.g., [Šainović et al. AJ](#), para.1491; [Kvočka et al., AJ](#), para.276; [Brdjanin AJ](#), paras.418, 420-425; [Brima, et al AJ](#), para.76.

<sup>675</sup> See e.g., [Bemba, et al AJ](#), paras.12, 1400.

<sup>676</sup> See Confirmation Decision, p.111.

a) *NGAISSONA took steps to structure the Anti-Balaka*

i. Pre-January 2014

253. As indicated, after the 24 March 2013 *Coup*, **NGAISSONA** followed BOZIZE to CAMEROON, regularly visiting him and Bernard MOKOM, and later residing with them in YAOUNDE.<sup>677</sup> As part of the strategy to return BOZIZE to power, **NGAISSONA** helped mobilise, support, and equip Anti-Balaka groups, and FACA and PG members loyal to BOZIZE in strategic positions along the CAMEROON and CAR border, around GOBERE (near BOSSANGO), BANGUI, and ZONGO, to prepare and execute attacks against Seleka positions. He provided money to, *inter alia*, buy ammunition and weapons.<sup>678</sup>

254. In July-August 2013, **NGAISSONA** and others created FROCCA,<sup>679</sup> which openly advocated the removal of the Seleka regime by force as well as BOZIZE's return to power. It promoted and disseminated an anti-Muslim agenda, urging CAR's population to chase out so-called "islamists" and "dihadists", claiming, *inter alia*, that local Muslims were in collaboration with Seleka forces whose intent was to "*islamis[e]*" the country.<sup>680</sup> In line with FROCCA's "*Plan Stratégique*", **NGAISSONA** took steps to further structure the group, including by liaising more closely with actors on the ground, paying them visits, coordinating further actions, and providing money, including for the acquisition of weapons and ammunition.<sup>681</sup>

255. In September 2013, as part of the preparations for coordinated Anti-Balaka attacks, **NGAISSONA** personally met with elements from BERTOUA, GAROUA-BOULAI and BOUAR. **NGAISSONA** travelled to the border to motivate them and to ensure their readiness to fight. Meanwhile, from GOBERE, the Anti-Balaka launched a series of attacks around BOSSANGO, BOZIZE's stronghold<sup>682</sup> and **NGAISSONA**'s former constituency.<sup>683</sup>

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<sup>677</sup> See above, para.67.

<sup>678</sup> See above, paras.737-101.

<sup>679</sup> See above, para.96.

<sup>680</sup> See above, paras.105-106.

<sup>681</sup> See above, para.99.

<sup>682</sup> See above, para.93.

<sup>683</sup> See above, para.215.

256. In the months that followed, the Anti-Balaka's strength and capability grew, culminating in the 5 December 2013 attacks on BANGUI and BOSSANGO, <sup>684</sup> and subsequent attacks in western CAR.

257. The integration of self-defence groups, FACA members loyal to BOZIZE, his former PG, and other BOZIZE loyalists into the Anti-Balaka – facilitated by **NGAISSONA** – fortified the group and made it better structured, organised, and coordinated. <sup>685</sup> It was instrumental to the group's capacity to carry out attacks on, and commit the Charged Crimes in BANGUI and BOSSANGO on 5 December 2013 and in their aftermaths, which required logistics, communications, planning, coordination, strategy, manpower, and firepower. Beyond this, it strengthened the Anti-Balaka's capacity to mount attacks, affecting the gravity and scale of the Charged Crimes, as well as their pervasiveness. As a result of the integrations and reinforcement of the Anti-Balaka with FACA members loyal to BOZIZE, members of his former PG, and other BOZIZE loyalists, the group was able to commit the widespread attack resulting in the Charged Crimes in and around BANGUI, along the PK9 – MBAIKI axis, BOSSANGO, and the uncharged crimes at YALOE, BOSSEMPTELE, BODA, CARNOT, BERBERATI, and GUEN. <sup>686</sup>

## ii. Post-January 2014

258. **NGAISSONA**'s designation as the National General Coordinator <sup>687</sup> formalised his leadership of the Anti-Balaka. <sup>688</sup> It acknowledged his recognition and influence in the

<sup>684</sup> See above, paras.112-114.

<sup>685</sup> [CAR-OTP-2001-0409](#), at 0410, para.5; [CAR-OTP-2001-0835](#), at 0845, para.28; [CAR-OTP-2001-2564](#), at 2578; **P-2012**: [CAR-OTP-2091-0127-R01](#), at 0134, paras.34, 45.

<sup>686</sup> See below and above, paras.150-166, 467-474, 483-486. See also Confirmation Decision, para.64.

<sup>687</sup> [CAR-OTP-2101-4059](#), at 4059; **P-1847**: [CAR-OTP-2061-1534-R01](#), at 1565-1566, paras.198-199, 202; **P-0884**: [CAR-OTP-2072-1440-R01](#), at 1467-1474, 1.905-1155, [CAR-OTP-2072-1479-R01](#), at 1480-1482, 1.27-99; **P-0808**: [CAR-OTP-2025-0324-R03](#), at 0336, para.82, [CAR-OTP-2093-0010-R01](#), at 0023, paras.69-70; **P-2232**: [CAR-OTP-2090-0561-R03](#), at 0577, paras.99-100; **P-1074**: [CAR-OTP-2094-0228-R02](#), at 0241, paras.71-72; **P-0889**: [CAR-OTP-2027-2290-R01](#), at 2299, paras.54-56; [CAR-OTP-2076-1082](#), from [00:26:38] to [00:27:18] and its transcript [CAR-OTP-2087-8944](#), at 8956, 1.419-427; [CAR-OTP-2076-1083](#), from [00:17:34] to [00:17:49] and its transcript [CAR-OTP-2087-8960](#), at 8970, 1.331-340; **P-0458**: [CAR-OTP-2118-2454-R01](#), at 2467-2468, 1.436-470, [CAR-OTP-2118-2514-R01](#), at 2536, 1.725-739, [CAR-OTP-2118-2514-R01](#), at 2522-2532, 1.277-606, [CAR-OTP-2118-2514-R01](#), at 2537-2538, 1.769-816, [CAR-OTP-2118-5048-R01](#), at 5058, 1.324-331, [CAR-OTP-2118-5081-R01](#), at 5082, 1.20-28, [CAR-OTP-2118-5346-R01](#), at 5352, 1.177-186; **P-2841**: [CAR-OTP-2127-4238-R01](#), at 4244, para.34.

<sup>688</sup> **P-2012**: [CAR-OTP-2091-0127-R01](#), at 0134, para.33; **P-1074**: [CAR-OTP-2094-0228-R02](#), at 0241, 0255, paras.75-76, 159; **P-0801**: [CAR-OTP-2074-2195-R01](#), at 2205, 1.341-344; **P-0884**: [CAR-OTP-2072-1479-R01](#), at 1507, 1.1021-1024; [CAR-OTP-2046-0630](#); [CAR-OTP-2073-0870](#), from [00:04:35] to [00:05:02] and its transcript [CAR-OTP-2107-1561](#), at 1563, 1.60-66.

movement before then.<sup>689</sup> Within the Anti-Balaka, it was common knowledge that: “[l]es chefs Anti-Balaka ont désigné NGAISSONA comme coordinateur Général. Il était aimé par les chefs, car il avait l'habitude de distribuer de l'argent aux gens, il était populaire”.<sup>690</sup>

259. On his designation, **NGAISSONA** formalised the Anti-Balaka’s until then *de facto* structure in BANGUI and CAR’s western provinces. He did this by acknowledging and/or formally appointing chiefs of discrete Anti-Balaka groups and areas as ComZones, including through appointment orders signed by him and affixed with his seal.<sup>691</sup> He exercised authority over these Anti-Balaka groups in BANGUI and in the provinces:

260. *First*, **NGAISSONA** was recognised as the Anti-Balaka’s General Coordinator and/or leader. He held himself out as such in private and public pronouncements,<sup>692</sup> and signed statements and orders in this capacity.<sup>693</sup> Official Anti-Balaka documents, such as project proposals and identity cards confirm **NGAISSONA**’s leadership and position.<sup>694</sup>

<sup>689</sup> See above, paras.54, 215-216. See also [CAR-OTP-2124-0995](#).

<sup>690</sup> **P-0889**: [CAR-OTP-2027-2290-R01](#), at 2299, paras.54-56; **P-0992**: [CAR-OTP-2110-0048-R01](#), at 0056-0057, paras.40, 46.

<sup>691</sup> **P-0889**: [CAR-OTP-2027-2290-R01](#), at 2301, para.69; **P-0884**: [CAR-OTP-2072-1739-R01](#), at 1752-1754, 1758, 1764-1765, 1.433-509, 642-657, 844-905, [CAR-OTP-2072-1881-R01](#), at 1906-1907, 1.893-919; **P-0876**: [CAR-OTP-2046-0324-R01](#), at 0325, 1.32-54; **P-0966**: [CAR-OTP-2031-0241-R01](#), at 0254, paras.72-73; **P-0808**: [CAR-OTP-2093-0010-R01](#), at 0031, para.120; [CAR-OTP-2068-0077](#), at 0077; [CAR-OTP-2001-5386](#), at 5466-5468; [CAR-OTP-2062-0074](#), at 0074-0076; [CAR-OTP-2059-0034](#), at 0034.

<sup>692</sup> **P-0314**: [CAR-OTP-2008-1188-R01](#), at 1212, para.122; **P-0801**: [CAR-OTP-2074-2159-R01](#), at 2165, 1.183-188; [CAR-OTP-2023-2917](#), from [00:00:00] to [00:00:20] and its transcript [CAR-OTP-2107-1514](#), at 1515, 1.1-9; [CAR-OTP-2006-1210](#), at 1213; **P-1074**: [CAR-OTP-2094-0228-R02](#), at 0241, para.76; [CAR-OTP-2042-0916](#), from [00:00:40] to [00:01:05], and its transcript and translation [CAR-OTP-2088-0646](#) and [CAR-OTP-2088-0649](#), at 0651, 1.3-9; [CAR-OTP-2003-1076](#), at 1085-1086; [CAR-OTP-2005-0095](#), from [00:00:13] to [00:00:27], and its transcript [CAR-OTP-2122-9368](#), at 9369, 1.6-13.

<sup>693</sup> [CAR-OTP-2025-0356](#), at 0357-0361; [CAR-OTP-2025-0428](#), at 0428-0429; [CAR-OTP-2069-3548](#), at 3548; [CAR-OTP-2030-0241](#), at 0240-0241; [CAR-OTP-2029-0171](#), at 0171-0174; [CAR-OTP-2029-0175](#), at 0175; [CAR-OTP-2006-1208](#), at 1208-1209; [CAR-OTP-2030-0252](#), at 0252-0254; [CAR-OTP-2030-0265](#), at 0265-0266; [CAR-OTP-2030-0270](#), at 0270-0273; [CAR-OTP-2030-0245](#), at 0245-0247; [CAR-OTP-2084-0146](#), at 0146; [CAR-OTP-2084-0147](#), at 0147.

<sup>694</sup> [CAR-OTP-2025-0362](#), at 0363; [CAR-OTP-2039-0019](#); [CAR-OTP-2025-0408](#); [CAR-OTP-2030-0230](#); [CAR-OTP-2059-0024](#); [CAR-OTP-2059-0034](#); [CAR-OTP-2059-0035](#).

261. Anti-Balaka members, including in the National Coordination and provincial groups, identified and recognised **NGAISSONA** as the Anti-Balaka's National General Coordinator and leader,<sup>695</sup> as did international and non-governmental organisations.<sup>696</sup>

262. *Second*, **NGAISSONA** had the power to appoint Anti-Balaka members to positions of authority within the national and provincial leaderships. He appointed ComZones who led and commanded elements in their areas of control,<sup>697</sup> and had the power to replace them when they did not perform their job properly or failed to comply.<sup>698</sup> **NGAISSONA** gave “*mandats*” to these ComZones, who then returned to their areas of responsibility to set up local committees/coordinations.<sup>699</sup> Some of these appointments were documented in orders signed by **NGAISSONA** and affixed with his “*Coordonnateur Général*” seal.<sup>700</sup> **NGAISSONA** also appointed National Coordination Committee members, including its Deputy Coordinator,<sup>701</sup> and other Anti-Balaka representatives.<sup>702</sup>

263. *Third*, **NGAISSONA** issued and disseminated orders to national or provincial Anti-Balaka leaders, and could make decisions and commitments concerning, as well as issue

<sup>695</sup> **P-0446**: [CAR-OTP-2059-1468-R01](#), at 1474, l.207-208; **P-0487**: [CAR-OTP-2076-0146-R01](#), at 0159-0160, l.482-486; **P-0801**: [CAR-OTP-2074-2159-R01](#), at 2164, l.151-154; **P-0808**: [CAR-OTP-2025-0324-R03](#), at 0337, para.87; **P-0876**: [CAR-OTP-2046-0324-R01](#), at 0329, l.186-189; **P-0884**: [CAR-OTP-2072-1440-R01](#), at 1461, l.721-726, [CAR-OTP-2072-1479-R01](#), at 1480, l.33-38; **P-0888**: [CAR-OTP-2031-0217-R01](#), at 0223, para.40; **P-0889**: [CAR-OTP-2034-0463-R01](#), at 0473, para.55; **P-0954**: [CAR-OTP-2048-0171-R02](#), at 0183, para.69; **P-0965**: [CAR-OTP-2046-0108-R01](#), at 0114-0115, l. 219-255; **P-0966**: [CAR-OTP-2031-0241-R01](#), at 0246, para.29; **P-0974**: [CAR-OTP-2058-0165-R01](#), at 0177, para.77; **P-0975**: [CAR-OTP-2033-7885-R02](#), at 7893, para.55; **P-1193**: [CAR-OTP-2045-0048-R02](#), at 0051, 0054, paras.21, 37; **P-1339**: [CAR-OTP-2041-0741-R01](#), at 0750, para.65; **P-1521**: [CAR-OTP-2046-0603-R01](#), at 0615, para.71; **P-1647**: [CAR-OTP-2050-0654-R02](#), at 0664, para.68; **P-1847**: [CAR-OTP-2061-1534-R01](#), at 1552, para.113; **P-1858**: [CAR-OTP-2063-0050-R01](#), at 0066, para.102; **P-1962**: [CAR-OTP-2068-0037-R02](#), at 0054, para.81; **P-1974**: [CAR-OTP-2068-0222-R02](#), at 0229, para.46; **P-2050**: [CAR-OTP-2076-0911-R01](#), at 0930, para.101; [CAR-OTP-2033-8065](#), at 8066; **P-2232**: [CAR-OTP-2100-2569-R01](#), at 2580, paras.58-59; [CAR-OTP-2003-1010](#), at 1025; [CAR-OTP-2002-4495](#), at 4515; [CAR-OTP-2001-3268](#), at 3286.

<sup>696</sup> See e.g. [CAR-OTP-2055-1987](#), at 2176; [CAR-OTP-2001-2707](#), at 2725; [CAR-OTP-2001-5739](#), at 5785; [CAR-OTP-2072-1686](#), at 1698; [CAR-OTP-2001-6437](#), at 6497. See also below, para.271.

<sup>697</sup> **P-0884**: [CAR-OTP-2072-1739-R01](#), at 1753-1765, l.462-903, [CAR-OTP-2072-1881-R01](#), at 1906-1907, l.863-919; **P-0966**: [CAR-OTP-2031-0241-R01](#), at 0253-0254, paras.71, 73; **P-1339**: [CAR-OTP-2041-0741-R01](#), at 0744, para.19; **P-1962**: [CAR-OTP-2068-0037-R02](#), at 0054, 0057, 0059, paras.81, 97, 109; [CAR-OTP-2001-5386](#), at 5466-5468; [CAR-OTP-2030-0445](#), at 0452-0453; [CAR-OTP-2059-0034](#), at 0034; [CAR-OTP-2059-0035](#), at 0035; [CAR-OTP-2003-1076](#), at 1140-1141; **P-0808**: [CAR-OTP-2093-0010-R01](#), at 0031, para.120; **P-1847**: [CAR-OTP-2061-1534-R01](#), at 1566, para.202.

<sup>698</sup> See e.g. **P-0884**: [CAR-OTP-2072-1739-R01](#), at 1766, l.917-943; **P-0801**: [CAR-OTP-2074-2369-R01](#), at 2380, l.352-371; [CAR-OTP-2101-4166](#), at 4169.

<sup>699</sup> **P-0884**: [CAR-OTP-2072-1739-R01](#), at 1760, l.702-749. See also [REDACTED].

<sup>700</sup> See, e.g. [CAR-OTP-2068-0077](#), at 0077; [CAR-OTP-2001-5386](#), at 5466-5467; [CAR-OTP-2062-0074](#), at 0074-0076. See further **P-0808**: [CAR-OTP-2093-0010-R01](#), at 0031, para.120.

<sup>701</sup> [CAR-OTP-2001-5386](#), at 5470. See also [CAR-OTP-2001-3372](#), at 3372.

<sup>702</sup> See e.g. **P-1193**: [CAR-OTP-2045-0048-R02](#), at 0051, para.21.

orders to, Anti-Balaka groups.<sup>703</sup> This included orders on Anti-Balaka combat-related activities. For instance, **NGAISSONA** issued orders to execute missions and operations,<sup>704</sup> to attack certain targets or locations,<sup>705</sup> to erect and remove roadblocks,<sup>706</sup> and to disturb the peace process or otherwise create “disorder”, including through organising strikes.<sup>707</sup> In addition, he could order the Anti-Balaka “to immediately cease all hostilities”,<sup>708</sup> or to permit the free flow of people and goods in CAR in accordance with international humanitarian law.<sup>709</sup> He ordered the Anti-Balaka to stop harassing or attacking Muslims in CAR during Ramadan, for example.<sup>710</sup> **NGAISSONA** was also able to summon Anti-Balaka leaders, including ComZones from the provinces and National Coordination members, to attend regular meetings held at his BOY-RABE home or at the

<sup>703</sup> [CAR-OTP-2001-4818](#), at 4819; [CAR-OTP-2014-0749](#), from [00:01:11] to [00:01:37] and its transcript, [CAR-OTP-2122-9374](#), at 9375-9376, l.1-66; **P-0405**: [CAR-OTP-2107-4618-R01](#), at 4646, l.933-937; **P-0801**: [CAR-OTP-2074-2369-R01](#), at 2375-2376, l.196-224; **P-0808**: [CAR-OTP-2093-0010-R01](#), at 0025, para.86; **P-0446**: [CAR-OTP-2059-1602-R01](#), at 1618-1619, l.609-615, 656-661; **P-1858**: [CAR-OTP-2063-0050-R01](#), at 0068, para.109; **P-1074**: [CAR-OTP-2094-0228-R02](#), at 0257, paras.168-169; [CAR-OTP-2066-1601](#), at 1656; **P-2328**: [CAR-OTP-2099-0165-R01](#), at 0194, paras.150, 153.

<sup>704</sup> See e.g. **P-0808**: [CAR-OTP-2025-0324-R03](#), at 0336, 0338, paras.84, 93, [CAR-OTP-2093-0010-R01](#), at 0029-0030, paras.107-110; **P-0966**: [CAR-OTP-2031-0241-R01](#), at 0257, para.89; **P-1521**: [CAR-OTP-2046-0603-R01](#), at 0616, para.82; **P-1858**: [CAR-OTP-2063-0050-R01](#), at 0068, para.112; [CAR-OTP-2039-0020](#), at 0020-0023; [CAR-OTP-2008-0805](#), at 0805; [CAR-OTP-2025-0356](#), at 0356-0360; [CAR-OTP-2029-0171](#), at 0171-0174; [CAR-OTP-2003-1076](#), at 1140-1141; [CAR-OTP-2012-0811](#), at 0821-0822, 0826; **P-2232**: [CAR-OTP-2090-0561-R03](#), at 0582, para.165; [CAR-OTP-2008-2379](#), at 2385; [CAR-OTP-2108-0050](#), at 0050-0051.

<sup>705</sup> See e.g. **P-2232**: [CAR-OTP-2090-0561-R03](#), at 0588, 0592, paras.207, 236; **P-2328**: [CAR-OTP-2099-0165-R01](#), at 0195, para.154; **P-0884**: [CAR-OTP-2072-1739-R01](#), at 1753-1757, l.479-611. See also **P-1521**: [CAR-OTP-2046-0603-R01](#), at 0615-0616, paras.77, 79-80.

<sup>706</sup> See e.g. **P-0884**: [CAR-OTP-2072-1814-R01](#), at 1818-1819, l.126-180, [CAR-OTP-2072-1913-R01](#), at 1919-1921, l.192-307; **P-0954**: [CAR-OTP-2048-0171-R02](#), at 0183-0184, paras.70-74; **P-0966**: [CAR-OTP-2031-0241-R01](#), at 0258-0259, para.99; **P-0808**: [CAR-OTP-2093-0010-R01](#), at 0026, para.89, [CAR-OTP-2025-0324-R03](#), at 0339-0340, para.101; **P-0458**: [CAR-OTP-2118-5346-R01](#), at 5355-5356, l.298-321; [CAR-OTP-2023-2447](#), from [00:03:08] to [00:03:24] and its transcript [CAR-OTP-2107-1511](#), at 1512, l.31-33.

<sup>707</sup> See e.g. **P-2625**: [CAR-OTP-2123-0377-R01](#), at 0403, para.154; **P-0876**: [CAR-OTP-2046-0295-R01](#), at 0319, l.851-859; **P-0884**: [CAR-OTP-2072-1814-R01](#), at 1818, l.116-125, [CAR-OTP-2072-1913-R01](#), at 1919-1920, l.215-235; **P-0954**: [CAR-OTP-2048-0171-R02](#), at 0183, paras.70-71; **P-0966**: [CAR-OTP-2031-0241-R01](#), at 0258-0259, para.99; **P-1719**: [CAR-OTP-2062-0039-R02](#), at 0062, para.141; [CAR-OTP-2008-0805](#), at 0805.

<sup>708</sup> See e.g. [CAR-OTP-2084-0146](#) at 0146; [CAR-OTP-2025-0428](#), at 0428; [CAR-OTP-2006-1215](#), at 1215; [CAR-OTP-2084-0150](#), at 0150; [CAR-OTP-2042-2467](#), from [00:25:01] to [00:28:05] and its transcript [CAR-OTP-2107-1489](#), at 1490, l.3-36; [CAR-OTP-2023-2920](#), from [00:02:25] to [00:02:50] and its transcript [CAR-OTP-2107-1519](#), at 1520, l.23-24; [CAR-OTP-2092-1173](#), at 1183; [CAR-OTP-2084-0155](#), at 0155-0156; **P-1074**: [CAR-OTP-2094-0228-R02](#), at 0256-0257, paras.160, 169; [CAR-OTP-2066-2102](#), at 2102; [CAR-OTP-2030-0245](#), at 0246; **P-2328**: [CAR-OTP-2099-0165-R01](#), at 0188, para.119.

<sup>709</sup> [CAR-OTP-2030-0245](#), at 0245, 0247; **P-0808**: [CAR-OTP-2093-0010-R01](#), at 0031-0032, paras.122-124.

<sup>710</sup> See e.g. [CAR-OTP-2084-0157](#), at 0157; **P-0461**: [CAR-OTP-2031-0190-R01](#), at 0198, para.43; [CAR-OTP-2042-0916](#), from [00:18:16] to [00:20:57] and its transcript and translation [CAR-OTP-2088-0646](#) and [CAR-OTP-2088-0649](#), at 0656-0657, l.235-270.

Hotel Azimut, during which he would discuss the security situation, including crimes committed by the Anti-Balaka, distribute money, and/or issue orders.<sup>711</sup>

264. **NGAISSONA** used several means to disseminate his orders and instructions to ensure their receipt and implementation. He issued orders not only through direct contacts with the ComZones,<sup>712</sup> but also transmitted them through other National Coordination members,<sup>713</sup> including through written orders and press releases directed to the Anti-Balaka.<sup>714</sup> To address Anti-Balaka concerns, he used radio, public airways,<sup>715</sup> and electronic communication networks, such as a dedicated Anti-Balaka Yahoo! email account<sup>716</sup> and a related Facebook page.<sup>717</sup> **NGAISSONA** also directly issued orders to Anti-Balaka leaders in the course of regular meetings described above, at his BOY-RABE home or the Hotel Azimut.<sup>718</sup>

265. ComZones and National Coordination Committee members complied with **NGAISSONA**'s orders and reported to him.<sup>719</sup> In April 2014, **NGAISSONA** stated:

<sup>711</sup>[REDACTED]. On the distribution of money, *see below*, para.139.

<sup>712</sup> *See above*, para.263.

<sup>713</sup> *See e.g.* [REDACTED]; **P-0975**: [CAR-OTP-2033-7885-R02](#), at 7893, para.55; [CAR-OTP-2039-0020](#), at 0020-0023; [REDACTED]; **P-2404**: [CAR-OTP-2102-1558-R02](#), at 1594, paras.151-152.

<sup>714</sup> **P-0446**: [CAR-OTP-2059-1586-R01](#), at 1587-1588, 1597, l.35-43, 461-464, [CAR-OTP-2059-1602-R01](#), at 1618, l.620-622, [CAR-OTP-2059-1648-R01](#), at 1670-1671, l.842-845; **P-0808**: [CAR-OTP-2093-0010-R01](#), at 0031-0032, paras.122-124, 128; **P-2328**: [CAR-OTP-2099-0165-R01](#), at 0195, para.155.

<sup>715</sup> **P-0954**: [CAR-OTP-2048-0171-R02](#), at 0183, para.71; **P-1193**: [CAR-OTP-2045-0048-R02](#), at 0056, para.46. *See also* [CAR-OTP-2042-2467](#), from [00:25:01] to [00:28:05] and its transcript [CAR-OTP-2107-1489](#), at 1490, l.3-36; [CAR-OTP-2042-4615](#), from [00:12:05] to [00:12:48] and its transcript [CAR-OTP-2107-1491](#) at 1492, l.19-27; [CAR-OTP-2030-0243](#), at 0243.

<sup>716</sup> *See* [CAR-OTP-2056-0371](#), at 0371; [CAR-OTP-2030-0276](#), at 0276-0277; [CAR-OTP-2030-0255](#), at 0255-0262; [CAR-OTP-2093-0010-R01](#), at 0037, para.143.

<sup>717</sup> *See* [CAR-OTP-2066-1510](#), at 1510-1539; [CAR-OTP-2008-2379](#), at 2383, 2385; [CAR-OTP-2030-0276](#), at 0276-0277; [CAR-OTP-2025-0324-R03](#) at 0337, para.90.

<sup>718</sup> *See above*, para.263.

<sup>719</sup> *See e.g.* **P-2556**: [CAR-OTP-2112-1300-R01](#), at 1318-1319, paras.137-140, 146; **P-0808**: [CAR-OTP-2025-0324-R03](#), at 0338, para.93, [CAR-OTP-2093-0010-R01](#), at 0029-0030, paras.105-106, 114; **P-0884**: [CAR-OTP-2072-1479-R01](#), at 1494, l.527-552, [CAR-OTP-2072-1739-R01](#), at 1753, 1757-1758, l.479-486, 601-641, [CAR-OTP-2072-1913-R01](#), at 1919-1921, l.216-235, 269-285; **P-0954**: [CAR-OTP-2048-0171-R02](#), at 0183, para.70; **P-0966**: [CAR-OTP-2031-0241-R01](#), at 0258-0259, para.99; **P-1339**: [CAR-OTP-2041-0741-R01](#), at 0750, para.65; **P-1847**: [CAR-OTP-2061-1534-R01](#), at 1556-1557, para.144; [CAR-OTP-2066-2466](#), at 2695; **P-2232**: [CAR-OTP-2090-0561-R03](#), at 0580, 590, 592, paras.145, 219, 234, 236, [CAR-OTP-2100-2569-R01](#), at 2581-2582, 2584, paras.66-71, 82; **P-2328**: [CAR-OTP-2099-0165-R01](#), at 0178, paras.65-66; [CAR-OTP-2042-2926](#), from [00:03:30] to [00:04:40] and its transcript and translation at [CAR-OTP-2107-3003](#) and [CAR-OTP-2107-3005](#), at 3007, l.3-19; **P-1521**: [CAR-OTP-2046-0603-R01](#), at 0618, para.89; **P-1962**: [CAR-OTP-2068-0037-R02](#), at 0055, paras.85-87; **P-0801**: [CAR-OTP-2074-2369-R01](#), at 2375-2376, l.196-224.

*“Les Anti-Balaka n’ont pas deux entités. Les Anti-Balaka que je coordonne, c’est unique, c’est réparti sur toute l’étendue du territoire. Quand je donne l’ordre à ces enfants, je pense... immédiatement ça suffit.”*<sup>720</sup>

266. **NGAISSONA** also issued orders to achieve political objectives or for personal gain.<sup>721</sup> For example, he issued the April 2014 order “to immediately cease all hostilities” in an effort to forestall his imminent arrest.<sup>722</sup> In August 2014, **NGAISSONA** pressured then Prime Minister Mahamat KAMOUN that, if nominated for the position of Director of SOCAPS, he [**NGAISSONA**] would ensure the Anti-Balaka would calm down and order them not to commit crimes. If not, he could not guarantee what would happen.<sup>723</sup> In October 2014, he ordered the Anti-Balaka to set up barricades in BANGUI in response to statements by SAMBA-PANZA<sup>724</sup> because of his desire to push for her resignation.<sup>725</sup> **NGAISSONA** led actions to destabilise or influence the transition government.<sup>726</sup>

267. *Fourth*, **NGAISSONA** had the authority to implement disciplinary measures.<sup>727</sup> In his 18 April 2014 interrogation before the CAR judicial police, he stated:

*“J’ai demandé même aux Anti-Balakas de ne plus voler et de commettre des hostilités. Sans le mandat d’arrêt décerné à mon encontre que je me rendrais déjà dans les différentes bases pour ramener la discipline parmi mes troupes. Par contre certains Anti-Balakas interpellaient les faux et les mettaient à la disposition des unités de gendarmerie pour enquête”.*<sup>728</sup>

<sup>720</sup> [CAR-OTP-2014-0749](#), from [00:01:11] to [00:01:35] and its transcript [CAR-OTP-2122-9374](#), at 9375-9376, l.1-66. See also [CAR-OTP-2023-1845](#), from [00:05:30] to [00:06:00], and its transcript [CAR-OTP-2107-1504](#), at 1506, l.73-78. [Emphasis added].

<sup>721</sup> See e.g. **P-0876**: [CAR-OTP-2046-0295-R01](#), at 0319, l.851-859; **P-0884**: [CAR-OTP-2072-1814-R01](#), at 1818-1819, l.126-180, [CAR-OTP-2072-1913-R01](#), at 1921, l.269-285; **P-0954**: [CAR-OTP-2048-0171-R02](#), at 0183, para.70.

<sup>722</sup> [CAR-OTP-2003-1076](#), at 1149; **P-0966**: [CAR-OTP-2031-0241-R01](#), at 0258-0259, para.99; **P-1074**: [CAR-OTP-2094-0228-R02](#), at 0257, paras.168-169; **P-2328**: [CAR-OTP-2099-0165-R01](#), at 0188, para.119. See also above, para.263

<sup>723</sup> [REDACTED].

<sup>724</sup> See above, para.263. See also **P-0889**: [CAR-OTP-2027-2290-R01](#), at 2306, para.98; **P-0801**: [CAR-OTP-2074-2401-R01](#), at 2412-2419, l.370-593, [CAR-OTP-2074-2294-R01](#), at 2309, l.480-497; [CAR-OTP-2032-1364](#), at 1367.

<sup>725</sup> [CAR-OTP-2092-1740](#), at 1740-1741; **P-0801**: [CAR-OTP-2074-2401-R01](#), at 2414, 2418, l.430-450, 551-584; [CAR-OTP-2084-1025-R01](#), at 1025; [CAR-OTP-2084-1083-R01](#), at 1083; [CAR-OTP-2084-1020-R01](#), at 1020.

<sup>726</sup> **P-1074**: [CAR-OTP-2094-0228-R02](#), at 0270, para.239; [CAR-OTP-2092-1975](#), at 1975-1976. See also [CAR-OTP-2092-1074](#), at 1076; [CAR-OTP-2092-1173](#), at 1182.

<sup>727</sup> **P-1847**: [CAR-OTP-2061-1534-R01](#), at 1553, 1556, 1566, paras.126, 198, 202; **P-1858**: [CAR-OTP-2063-0050-R01](#), at 0068, para.109.

<sup>728</sup> [CAR-OTP-2003-1076](#), at 1104. [Emphasis Added].

268. **NGAISSONA** could and did remove members of the Anti-Balaka leadership he deemed could no longer be part of, or represent the group.<sup>729</sup> As noted, **NGAISSONA** established the Anti-Balaka PM<sup>730</sup> and had the power to order the arrest of “criminal” members of the group and to refer them to national or international authorities to ensure their arrest and prosecution.<sup>731</sup> To implement his orders and directions, **NGAISSONA** appointed individuals to oversee their execution.<sup>732</sup> Given his position, **NGAISSONA** also had the power to intervene and to stop individuals from being killed by the Anti-Balaka.<sup>733</sup>

269. Finally, **NGAISSONA** structured the Anti-Balaka by offering logistical assistance and by giving the Anti-Balaka a voice, encouraging them, and promoting their policies, objectives, and agendas.

270. **NGAISSONA** placed his father’s residence in BOY-RABE — an Anti-Balaka stronghold<sup>734</sup> — at their disposal to be used as the seat of the National Coordination.<sup>735</sup> As such, he put in place an administrative structure, where the group could formulate, coordinate, and disseminate propaganda nationally.<sup>736</sup> From there, the National Coordination issued press communiqués, organised radio interviews, or otherwise

<sup>729</sup> See e.g. **P-0801**: [CAR-OTP-2074-2335-R01](#), at 2352, 2355-2356, 1.565-572, 656-687, [CAR-OTP-2074-2722-R01](#), at 2729, l. 232-234; [CAR-OTP-2092-1732](#), at 1733; **P-0876**: [CAR-OTP-2046-0295-R01](#), at 0313-0314, 1.624-670, [CAR-OTP-2046-0473-R01](#), at 0477-0478, 1.143-174; **P-0889**: [CAR-OTP-2034-0463-R01](#), at 0475, 0478, 0480-0481, paras.64, 68, 84, 104; [CAR-OTP-2001-5386](#), at 5469; [CAR-OTP-2006-1214](#), at 1214; [CAR-OTP-2002-0716](#), at 0717-0718; [CAR-OTP-2030-0282](#), at 0283; [CAR-OTP-2009-5713](#), at 5715.

<sup>730</sup> See above, para.133.

<sup>731</sup> See e.g. **P-0808**: [CAR-OTP-2093-0010-R01](#), at 0024-0025, 0033, paras.78, 129; **P-0446**: [CAR-OTP-2059-1586-R01](#), at 1597, 1599-1600, 1.434-451, 509-566, [CAR-OTP-2059-1602-R01](#), at 1603-1604, 1.18-68; [CAR-OTP-2042-1873](#), from [00:17:15] to [00:19:18] and its transcript [CAR-OTP-2107-1477](#), at 1478, 1.3-25; [CAR-OTP-2042-0916](#), from [00:12:00] to [00:16:00] and its transcript and translation [CAR-OTP-2088-0646](#) and [CAR-OTP-2088-0649](#), at 0654-0655, 1.164-187; [CAR-OTP-2023-2919](#), from [00:04:55] to [00:09:58] and its transcript [CAR-OTP-2107-1516](#), at 1517-1518, 35-88; [CAR-OTP-2023-2447](#), from [00:04:02] to [00:05:06], and its transcript [CAR-OTP-2107-1511](#), at 1512-1513, 1.40-59; [CAR-OTP-2023-2920](#), from [00:00:00] to [00:03:41] and its transcript [CAR-OTP-2107-1519](#), at 1520, 1.4-30.

<sup>732</sup> See e.g. **P-0888**: [CAR-OTP-2031-0217-R01](#), at 0226, para.59; **P-1521**: [CAR-OTP-2046-0603-R01](#), at 0616, para.82; **P-1719**: [CAR-OTP-2062-0039-R02](#), at 0054, para.92; [CAR-OTP-2039-0020](#), at 0020-0023; [CAR-OTP-2029-0175](#), at 0175; [CAR-OTP-2062-0074](#), at 0074-0076.

<sup>733</sup> See e.g. [REDACTED].

<sup>734</sup> **P-2012**: [CAR-OTP-2091-0127-R01](#), at 0133, para.28.

<sup>735</sup> [REDACTED]; **P-2050**: [CAR-OTP-2076-0911-R01](#), at 0930, para.101; **P-0884**: [CAR-OTP-2072-1479-R01](#), at 1490, 1.370-376. See also [CAR-OTP-2077-0141](#) at 0141; [CAR-OTP-2066-1601](#), at 1715, 1797; [CAR-OTP-2091-0339](#), at 0339; **P-2012**: [CAR-OTP-2091-0127-R01](#), at 0133, paras.29-30; **P-1074**: [CAR-OTP-2094-0228-R02](#), at 0270, para.239; [REDACTED].

<sup>736</sup> [REDACTED].

broadcast information publicly, or to particular interest-groups.<sup>737</sup> It was also sometimes used to detain Anti-Balaka prisoners<sup>738</sup> and to store stolen vehicles to be ransomed.<sup>739</sup>

271. In addition, **NGAISSONA** gave the Anti-Balaka a voice, by representing them in meetings with the transition President and government, and MISCA,<sup>740</sup> but also at peace negotiations such as the July 2014 BRAZZAVILLE Summit.<sup>741</sup> He undertook formal commitments on the group's behalf,<sup>742</sup> and acted as a mediator, both between different sections of the Anti-Balaka, and with external entities or authorities.<sup>743</sup>

b) *NGAISSONA financed the Anti-Balaka, including for the purchase of weapons*

272. A successful and wealthy businessman,<sup>744</sup> **NGAISSONA** provided money to Anti-Balaka elements and leaders, including well before his return to BANGUI.

273. While in CAMEROON, **NGAISSONA** and Bernard MOKOM paid for the transportation of elements from YAOUNDE/DOUALA to the border area, and from CAMEROON back to CAR, to reach their positions for the 5 December 2013 Attack on BANGUI.<sup>745</sup>

274. **NGAISSONA** and Bernard MOKOM also financed Anti-Balaka groups, FACA members loyal to BOZIZE and former PG, in strategic positions along the CAMEROON and CAR border, around GOBERE (near BOSSANGO), BANGUI, and ZONGO, to prepare and execute attacks against Seleka positions. They promised and provided money

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<sup>737</sup> See above, para.264.

<sup>738</sup> **P-2328:** [CAR-OTP-2099-0165-R01](#), at 0186, 0193, paras.103, 148; [CAR-OTP-2023-1597](#), from [00:00:00] to [00:04:33] and its transcript [CAR-OTP-2107-1499](#), at 1500-1501, l.1-59; **P-1921:** [CAR-OTP-2081-0072-R02](#), at 0082-0083, para.56; **P-2050:** [CAR-OTP-2076-1083](#), from [00:11:00] to [00:14:08] and its transcript [CAR-OTP-2087-8960](#), at 8964-8966, l.149-216.

<sup>739</sup> **P-2328:** [CAR-OTP-2099-0165-R01](#), at 0193, para.145; [REDACTED].

<sup>740</sup> **P-0884:** [CAR-OTP-2072-1479-R01](#), at 1482-1483, l.109-125; **P-0808:** [CAR-OTP-2025-0324-R03](#), at 0333, paras.61, 63.

<sup>741</sup> [CAR-OTP-2030-0267](#), at 0267-0268; [CAR-OTP-2001-6924](#), at 6926; **P-1074:** [CAR-OTP-2094-0228-R02](#), at 0261-0262, paras.190, 193; [CAR-OTP-2023-2473](#), from [00:00:00] to [00:15:52] and its transcript [CAR-OTP-2122-9426](#), at 9427-9429, l.6-134.

<sup>742</sup> [CAR-OTP-2001-3405](#), at 3405-3414; [CAR-OTP-2025-0428](#), at 0428-0429; [CAR-OTP-2008-0599](#), at 0599-0605.

<sup>743</sup> [CAR-OTP-2092-1126](#), at 1126; [REDACTED].

<sup>744</sup> See above, para.215.

<sup>745</sup> See above, para.71.

to elements on the ground, *inter alia*, to buy ammunition and weapons, medication, food, phones, or phone credit.<sup>746</sup>

275. For example, **NGAISSONA** and Bernard MOKOM travelled to Anti-Balaka elements located in the border area, to transfer money and weapons but also ammunition, Thurayas, and medication, in preparation of the attack on or around 26 October 2013.

276. Likewise, in respect of Anti-Balaka elements in the ZONGO area, **NGAISSONA** and Bernard MOKOM provided money to MOKOM, to buy, amongst others, ammunition. [REDACTED] e-mail communications reflect that in early October 2013, **NGAISSONA** had money, food, and equipment brought to ZONGO to be further dispatched to the field (which was apparently diverted to MOKOM and Claude NGAIKOSSET).

277. In the area of BOSSANGO, including BOZIZE's hometown of BENZAMBE and GOBERE, **NGAISSONA** and Bernard MOKOM provided money, food, weapons, and/or ammunition to the elements located there.

278. Finally, from CAMEROON, **NGAISSONA** financed the youth in BANGUI, including for the acquisition of weapons and ammunition, through intermediaries such as [REDACTED], NGREMANGOU and KONATE. As noted, Facebook and e-mail communications reflect that **NGAISSONA** liaised with elements in BANGUI through [REDACTED], to assess what their "*besoins*" were in terms of money, weapons, ammunitions, and other materials. As mentioned, days before the attack on the 5 December 2013, weapons were distributed on his behalf to the Anti-Balaka chiefs outside BANGUI.<sup>747</sup> **NGAISSONA** also placed orders for ammunition with a local provider, and was involved in the supply of ammunition from the DRC to the Anti-Balaka in CAR.<sup>748</sup>

279. Upon his return to BANGUI, **NGAISSONA** provided money to Anti-Balaka members to enable them to carry out operations, and to assist them to purchase weapons.<sup>749</sup> He distributed money to ComZones in BANGUI and in the provinces for their support, including to pay for food, accommodation, burial expenses and other expenditures.<sup>750</sup> In

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<sup>746</sup> See above, paras.274-279.

<sup>747</sup> See above, para.81.

<sup>748</sup> See above, para.81.

<sup>749</sup> See above, para.143.

<sup>750</sup> See above, para.139.

addition, **NGAISSONA** promised Anti-Balaka elements money or other types of rewards, including positions in the military or in the government.<sup>751</sup>

280. In financing the Anti-Balaka in this way, **NGAISSONA** was able to influence its members and secure their loyalty.

c) *NGAISSONA issued instructions to Anti-Balaka members, including with regard to the 5 December attack and attacks preceding it*

281. As explained above, the integration of self-defence groups, FACA members loyal to BOZIZE, members of his former PG, and other BOZIZE loyalists into the Anti-Balaka – facilitated by **NGAISSONA** - fortified the group and made it better structured, organised and coordinated. It was instrumental to the group's capacity to carry out attacks on, and commit crimes in BANGUI and BOSSANGO, and subsequently, along the PK9 – MBAIKI axis, and in BOSSANGO, YALOKÉ, BOSSEMPTELE, BODA, CARNOT, BERBERATI, and GUEN.<sup>752</sup>

282. **NGAISSONA** was integral to the coordination of the Anti-Balaka together with Bernard MOKOM, the elements answered to them both and took their instructions, including with regard to planned attacks.<sup>753</sup> As noted, **NGAISSONA** and Bernard MOKOM were in direct contact with Anti-Balaka members on the ground to advance preparations for an attack to reclaim power from the Seleka and DJOTODIA.<sup>754</sup>

283. For instance, well in advance of the 5 December 2013 BANGUI Attack, **NGAISSONA** and Bernard MOKOM summoned FACA *capitaine* Eugène NGAIKOSSET from BRAZZAVILLE to YAOUNDE in order to provide him with instructions, so that he could return to the field to coordinate the Anti-Balaka in carrying out attacks.<sup>755</sup>

284. In addition, **NGAISSONA** personally issued instructions to attack particular areas. For instance, in October 2013, after meeting with the Anti-Balaka groups stationed in the

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<sup>751</sup> See above, paras.139-140.

<sup>752</sup> See below, paras.462-482 for PK9-MBAIKI axis; paras.417-443 for BOSSANGO; paras.154-156 for YALOKÉ; paras.157-158 for BOSSEMPTELE; paras.163-164 for BODA; paras.161-162 for CARNOT; paras.165-166 for BERBERATI; paras.159-160 for GUEN.

<sup>753</sup> **P-1847: CAR-OTP-2061-1534-R01**, at 1551-1556, 1558, paras.112, 118, 126, 130, 138, 152.

<sup>754</sup> **P-1847: CAR-OTP-2061-1534-R01**, at 1558-1559, para.156.

<sup>755</sup> [REDACTED].

area of BERTOUA and providing them with money, ammunition, Thurayas, and medication, **NGAISSONA** and Bernard MOKOM instructed them to attack BOUAR. On their orders, the Anti-Balaka prematurely advanced on BOUAR on 26 October 2013, resulting in the failure of the operation. A few days later, **NGAISSONA** deployed reinforcements from YAOUNDE to the border.<sup>756</sup>

285. In November 2013, from CAMEROON, **NGAISSONA** coordinated the military deployments together with Bernard MOKOM and Francois BOZIZE.<sup>757</sup> At the same time, **NGAISSONA** provided instructions to KONATE's group in BANGUI,<sup>758</sup> and transmitted information on enemy positions to the youth in the field.<sup>759</sup>

286. [REDACTED] reflect that, in preparation of the BANGUI Attack, on or around 24 November 2013, **NGAISSONA** ordered the elements in BOUAR to reach BOSSEMBELE in three days. On or around 27 November 2013, **NGAISSONA** and Bernard MOKOM ordered the "little ones" (*i.e.* the Anti-Balaka elements) in ZONGO to cross the river to BANGUI.

d) *NGAISSONA liaised with Anti-Balaka members exercising key functions, including Bernard MOKOM and Maxime MOKOM*

287. After the 24 March 2013 *Coup*, **NGAISSONA** and Bernard MOKOM joined BOZIZE in CAMEROON. They met regularly and later shared a residence in YAOUNDE.<sup>760</sup>

288. **NGAISSONA** had a close relationship with Bernard MOKOM; together they gathered the Anti-Balaka groups, met with them, provided them with supplies and instructed them in preparation for the 5 December 2013 Attack.

289. **NGAISSONA** and Bernard MOKOM were also in contact with MOKOM, who, as the *de facto* Anti-Balaka operations coordinator, directed Anti-Balaka actions from ZONGO. From there, he organised the distribution of weapons and money, the movement of personnel, and instructed Anti-Balaka elements on when to attack specific towns and

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<sup>756</sup> See above, paras.73-74.

<sup>757</sup> [CAR-OTP-2100-2994](#), at 3027, 11:06:17.

<sup>758</sup> **P-0458**: [CAR-OTP-2118-2341-R01](#), at 2362-2363, l.724-730.

<sup>759</sup> [CAR-OTP-2100-7317](#), at 7322, 19:32:54.

<sup>760</sup> See above, para.67.

villages.<sup>761</sup> **NGAISSONA** was also in contact with, and provided support to ComZones in BANGUI and the provinces, who kept him informed of operations on the ground.<sup>762</sup>

290. Throughout this period, MOKOM was in permanent contact with his father Bernard MOKOM and **NGAISSONA** in CAMEROON, updating them on Anti-Balaka activities.<sup>763</sup>

291. From CAMEROON, **NGAISSONA** also liaised with [REDACTED], NGREMANGOU, and KONATE, who remained in BANGUI and were coordinating various groups there, together with MOKOM.<sup>764</sup>

292. After his appointment as the National General Coordinator, **NGAISSONA** held influence with the leaders of Anti-Balaka elements responsible for the Charged Crimes. **NGAISSONA** was in frequent contact with these leaders, including when crimes were being committed. In particular, he was in contact with key Anti-Balaka provincial leaders,<sup>765</sup> including in BOSSANGO, <sup>766</sup> and those along the PK9 – MBAIKI axis, including **YEKATOM**.<sup>767</sup> He summoned Anti-Balaka leaders in the provinces, to the regular meetings described above at his home or at the Hotel Azimut during which he would discuss, among other things, the crimes committed by the Anti-Balaka.<sup>768</sup>

#### **D. NGAISSONA HAD THE REQUIRED INTENT AND KNOWLEDGE**

##### *a) General*

293. **NGAISSONA** assisted the Anti-Balaka to commit the Charged Crimes with the aim of facilitating their commission. **NGAISSONA** was well aware that elements of the Anti-Balaka would, in the ordinary course of events, commit these types of crimes.

294. **NGAISSONA** intentionally contributed to the commission of the Charged Crimes by the Anti-Balaka acting pursuant to the Common Purpose or organisational Criminal Policy, which entailed the violent targeting of the Muslim civilian population in western

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<sup>761</sup> See above, paras.84-85.

<sup>762</sup> See above, paras.126-131.

<sup>763</sup> See above, para.83.

<sup>764</sup> See above, para.77.

<sup>765</sup> See above, paras.126-131.

<sup>766</sup> See below, paras.433-434. See also [REDACTED].

<sup>767</sup> See below, para.415.

<sup>768</sup> See above, para.262.

CAR, based on their religious, national or ethnic affiliation, and their perceived collective responsibility for, complicity with, and/or support of, the Seleka.

295. **NGAISSONA**'s contributions to the Charged Crimes were made with the aim of furthering the criminal activity or purpose of the Anti-Balaka (including its subgroups) and in the knowledge of their intention to commit such crimes.

b) *NGAISSONA played a key-role in the creation of the Anti-Balaka*

296. **NGAISSONA** was involved in the Anti-Balaka movement from its inception. Together with other members of BOZIZE's inner circle and to achieve their objective of claiming or reclaiming political power in CAR, **NGAISSONA** assisted to galvanise forces that would become the Anti-Balaka.<sup>769</sup> He was a principal in the Anti-Balaka and knew of the propensity for violence and motivation of its members to exact violent revenge against the Muslim population for Seleka crimes.<sup>770</sup> In addition, **NGAISSONA** encouraged and promoted the anti-Muslim animus within the group which transcended its organisational Criminal Policy.<sup>771</sup> They were considered "a necessary evil" and, given their collective mentality, their violence was all but certain to occur, and did, well before the 5 December 2013 Attack.<sup>772</sup>

297. From at least September 2013, Anti-Balaka crimes including deportation and forcible transfer, murder, torture and cruel treatment, severe deprivation of liberty, the destruction of homes and mosques, and pillaging, against Muslim civilians and others perceived as supporting the Seleka were common knowledge.<sup>773</sup> It was also a matter of common knowledge that rape was committed and would be committed by parties to armed conflict in CAR.<sup>774</sup>

<sup>769</sup> See above, paras.62, 68, 70.

<sup>770</sup> See above, paras.203, 219; see below, para.305.

<sup>771</sup> See above, paras.167-175.

<sup>772</sup> **P-2841**: [CAR-OTP-2127-4238-R01](#), at 4281, para.177.

<sup>773</sup> **P-1074**: [CAR-OTP-2094-0228-R02](#), at 0251, para.130.

<sup>774</sup> See [CAR-OTP-2054-1342](#), at 1343-1344 (Libreville Agreement, Articles 1 and 5(2)); [CAR-OTP-2001-3405](#), at 3407-3408 (Brazzaville Agreement, Article 2); [CAR-OTP-2008-0615](#), at 0618 (Nairobi Agreement, Article 11(d)). See also [CAR-OTP-2092-2771](#), at 2774; [CAR-OTP-2101-3983](#), at 3983; [CAR-OTP-2092-1257](#), at 1257-1258; [CAR-OTP-2101-1437](#), at 1437-1442.

c) *NGAISSONA knew about the developments on the ground and the attacks*

298. As described earlier, **NGAISSONA** was kept abreast of developments on the ground in CAR during the period that he was in CAMEROON.<sup>775</sup> He received direct information about events and Anti-Balaka operations from MOKOM,<sup>776</sup> and other key members of the group, and of BOZIZE's inner circle.<sup>777</sup>

299. He likewise provided such information to those members. For instance, on 30 November 2013, he called [REDACTED] to inform him that the planned Anti-Balaka attack on BANGUI had been set for 1 December 2013.<sup>778</sup> This was in line with the occasional updates that he provided [REDACTED] in FROCCA in the preceding months.<sup>779</sup>

d) *NGAISSONA knew that crimes would be and were being committed by the Anti-Balaka*

300. **NGAISSONA** knew that Anti-Balaka elements were committing, and intended to commit, the Charged Crimes as he contributed to the group's formation, organisation, financing, arming, instructing, and as he liaised with other key figures in the group, before his designation as National General Coordinator and throughout the Relevant Period.<sup>780</sup>

301. Anti-Balaka crimes increased in frequency following the 5 December 2013 Attack, and particularly after DJOTODIA's 10 January 2014 resignation and the Seleka's retreat,<sup>781</sup> as the group sought revenge on a Muslim population made even more vulnerable by their prior attacks. Despite his clear knowledge of their crimes however, **NGAISSONA** persisted in his involvement with the group and in the same conduct comprising his earlier contributions, thus demonstrating his prior intentions.<sup>782</sup>

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<sup>775</sup> See above, paras.78, 83.

<sup>776</sup> See above, paras.83,101; [REDACTED].

<sup>777</sup> See above, paras.67, 74, 96, 219, 296.

<sup>778</sup> [REDACTED].

<sup>779</sup> [REDACTED].

<sup>780</sup> See above, paras.67-72, 112-114, 176.

<sup>781</sup> See above, paras.184, 195.

<sup>782</sup> See above, paras.250-292.

e) *NGAISSONA explicitly acknowledged the commission of crimes by the Anti-Balaka*

302. **NGAISSONA** knew that Anti-Balaka elements intended to commit crimes.<sup>783</sup> He further made statements and/or signed documents acknowledging that the Anti-Balaka were committing crimes. In a 1 February 2014 press release **NGAISSONA** acknowledged that Anti-Balaka crimes were being committed in the context of ongoing hostilities, including his awareness of the presence of persons having joined the group for “wrongful motives” or “easy gain”.<sup>784</sup> He acknowledged that investigations should be conducted within the Anti-Balaka’s ranks to determine the perpetrators of crimes.<sup>785</sup> None were conducted.

303. About a week later, **NGAISSONA**, **MOKOM**, and Bernard **MOKOM** spoke to Anti-Balaka commanders, ComZones, and elements at a meeting also attended by **YEKATOM**.<sup>786</sup> In their address, they promised rewards to Anti-Balaka elements who had come from as far as 600 km away (*i.e.*, BOSSANGO) in their bid to claim or reclaim power, but also, underscored that their work was not done, even though a new interim government was by then firmly in place.

304. In his address, **NGAISSONA** stated:

*"We have fought the Seleka. We arrived in Bangui. We will not give up. We will continue the work until the end..."*.<sup>787</sup>

To this, Bernard **MOKOM** added: “*we have not reached our objectives yet ... those, who died on the way, their families will be compensated. I give you my word*”.<sup>788</sup> Finally, **MOKOM** made their message even clearer:

<sup>783</sup> **P-2625**: [CAR-OTP-2123-0377-R01](#), at 0404, paras.157-159; **P-2232**: [CAR-OTP-2090-0561-R03](#), at 0596, paras.269, 270; **P-0808**: [CAR-OTP-2093-0010-R01](#), at 0030, para.114; **P-1847**: [CAR-OTP-2061-1534-R01](#), at 1553, 1568-1569, paras.126, 216-220; **P-0884**: [CAR-OTP-2072-1913-R01](#), at 1929-1932, 1.566-659.

<sup>784</sup> [CAR-OTP-2084-0147](#).

<sup>785</sup> [CAR-OTP-2025-0380](#), at 0381, 0383; [CAR-OTP-2006-1210](#), at 1211-1212. See also [CAR-OTP-2042-4545](#), from [00:00:00] to [00:00:06] and its transcript, [CAR-OTP-2122-9435](#), at 9436, 1.1-9; [CAR-OTP-2071-1989](#), from [00:00:40] to [00:01:20] and its transcript, [CAR-OTP-2122-9443](#), at 9444, 1.1-33.

<sup>786</sup> [REDACTED].

<sup>787</sup> [REDACTED].

<sup>788</sup> [REDACTED].

"You know how we worked on our way to BANGUI. The objective is to bring back BOZIZE to BANGUI. I ask all ComZones to give me an overview about their men, their weapons and the men who died. We are facing a big fight. We will prepare this fight for our reward tomorrow. We came to liberate the population and to chase out the Seleka. When the Seleka have left, the power will be ours. It will be thanks to us that the Seleka have left. We will bring back the General to the country".<sup>789</sup>

305. **NGAISSONA's** press releases and speeches also reveal his knowledge of Anti-Balaka crimes:

*"Aussi, la population, victime des exactions des SELEKA à travers la Centrafrique depuis le 10 décembre 2012, a regagné les rangs des Antibalaka avec un esprit de vengeance envers les ex-Séléka est [sic] les sujets musulmans qui ont soutenu les Séléka durant leur occupation de la RCA. Avec la généralisation du mouvement "Anti-Balaka" a cette frange de la population centrafricaine victime des Séléka, les dérapages sont constatés dans les rangs des Antibalaka en sachant que beaucoup de délinquants et de déviants ont grossi les rangs du Mouvement".<sup>790</sup>*

306. **NGAISSONA** repeated the same throughout his tenure as the National Coordinator,<sup>791</sup> including in a June 2014 memorandum conceding that in the provinces the Anti-Balaka's conduct was counter-productive: *"dans certaines localités de provinces, des comportements contre-productifs sont encore relevés dans les rangs des Antibalaka."*<sup>792</sup>

f) *NGAISSONA knew the crimes committed were serious and continuing*

307. **NGAISSONA's** occasional advice to members not to commit crimes<sup>793</sup> only underscores his awareness and knowledge of them. He was also aware that these crimes were very serious, and he told elements to be "careful". As one ComZone put it:

<sup>789</sup> [REDACTED].

<sup>790</sup> [CAR-OTP-2025-0372](#), at 0374; [CAR-OTP-2025-0362](#) at 0364.

<sup>791</sup> [CAR-OTP-2084-0148](#), at 0148-0149; [CAR-OTP-2006-1210](#); [CAR-OTP-2092-1735](#); [CAR-OTP-2001-3405](#), at 3405-3414; [CAR-OTP-2001-5386](#), at 5445-5446; [CAR-OTP-2042-0916](#), from [00:06:00] to [00:08:00], and from [00:12:00] to [00:14:08] and its transcript and translation, [CAR-OTP-2088-0646](#) and [CAR-OTP-2088-0649](#), at 0652-0653, 0654, l.71-94, l.152-175; [CAR-OTP-2023-2936](#), from [00:00:00] to [00:04:58] and its transcript [CAR-OTP-2107-1524](#), at 1525, l.1-39; **P-0801**: [CAR-OTP-2074-2159-R01](#), at 2187, 2190, l.949-959, 1041-1061; [CAR-OTP-2099-1360](#), from [00:00:28] to [00:00:52] and its transcript, [CAR-OTP-2107-1600](#), at 1601, l.10-27.

<sup>792</sup> [CAR-OTP-2025-0396](#), at 0399.

<sup>793</sup> **P-0992**: [CAR-OTP-2110-0048-R01](#), at 0055-0056, para.38.

*“il a ... est venu à BANGUI... et M. NGAISSONA les [sic] a prodigué des conseils... qu’il doit beaucoup faire attention... parce que un jour ils seront poursuivis par la Cour pénale internationale... Ou par la Cour spéciale ... Ou par la MINUSCA... C’est comme ça que M. NGAISSONA les [sic] a prodigué des conseils”.*<sup>794</sup>

308. **NGAISSONA** was also regularly and personally notified of continuing Anti-Balaka crimes by CAR authorities<sup>795</sup> and residents,<sup>796</sup> MINUSCA,<sup>797</sup> Sangaris forces,<sup>798</sup> the media,<sup>799</sup> and Anti-Balaka members.<sup>800</sup> He was also aware of Anti-Balaka crimes, as they provided the basis for his attempted arrest, and the arrest of some 10 other National Coordination members in February 2014.<sup>801</sup> They also founded warrants issued against him, including by CAR authorities around 8 April 2014.<sup>802</sup> Moreover, **NGAISSONA** knew of Anti-Balaka crimes throughout western CAR, including those committed by **YEKATOM** and his Group, through the PM missions he sent. He sent a PM mission to the LOBAYE Prefecture<sup>803</sup> because YEKATOM’s Group was committing crimes against the “population” there.<sup>804</sup> **NGAISSONA** also learned of crimes through individuals that he sent to Anti-Balaka groups in the western provinces to report back on “problems”.<sup>805</sup>

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<sup>794</sup> [REDACTED].

<sup>795</sup> See e.g. **P-0801**: [CAR-OTP-2074-2195-R01](#), at 2210-2215, l.486-670; [CAR-OTP-2003-1076](#), at 1087, 1092-1093.

<sup>796</sup> See e.g. [CAR-OTP-2066-2466](#), at 2694; [REDACTED].

<sup>797</sup> See e.g. **P-0801**: [CAR-OTP-2074-2195-R01](#), at 2210-2211, l.486-538; [CAR-OTP-2074-2263-R01](#), at 2265, l.68-70; [CAR-OTP-2074-2294-R01](#), at 2326, l.1066-1091; [CAR-OTP-2074-2335-R01](#), at 2343, l.242-256.

<sup>798</sup> [CAR-OTP-2090-0408](#), from [00:00:00] to [00:00:33] and its transcript, [CAR-OTP-2107-1598](#), at 1599, l.1-18; [CAR-OTP-2042-2641](#), from [00:18:38] to [00:23:10] and its transcript and translation [CAR-OTP-2107-2997](#) and [CAR-OTP-2107-2999](#), at 3001-3002, l.3-54.

<sup>799</sup> See e.g. [CAR-OTP-2001-4818](#), at 4819; [CAR-OTP-2014-0749](#), from [00:00:00] to [00:04:34] and its transcript, [CAR-OTP-2122-9374](#), at 9375-9376, l.1-66.

<sup>800</sup> See e.g. **P-0801**: [CAR-OTP-2074-2335-R01](#), at 2350, l.489-504; **P-1719**: [CAR-OTP-2062-0039-R02](#), at 0056, para.108; **P-0884**: [CAR-OTP-2072-1582-R01](#), at 1600-1602, 1611-1612, l.605-697.

<sup>801</sup> [CAR-OTP-0080-0685](#), at 0685; [CAR-OTP-2025-0380](#) at 0382. See also [CAR-OTP-2006-1210](#), at 1211-1212.

<sup>802</sup> [CAR-OTP-0080-0718](#), at 0718-0720; [CAR-OTP-2002-0481](#), at 0481.

<sup>803</sup> [CAR-OTP-2025-0356](#), at 0356.

<sup>804</sup> [REDACTED].

<sup>805</sup> See e.g. **P-1858**: [CAR-OTP-2063-0050-R01](#), at 0068, para.114.

309. Anti-Balaka crimes were also widely reported<sup>806</sup> in the national and international media,<sup>807</sup> and by non-governmental organisations<sup>808</sup> by the time of **NGAISSONA**'s formal designation, and during his tenure as National General Coordinator. UN agencies also reported on Anti-Balaka crimes.<sup>809</sup>

310. **NGAISSONA** was interviewed in relation to a June 2014 NGO report in which he explained that he was designated National Coordinator "because [he] stand[s] with the youth."<sup>810</sup> The report further details Anti-Balaka crimes committed against Muslim civilians in western CAR including their plight in various enclaves under siege by Anti-Balaka elements.<sup>811</sup> The report was emailed to **NGAISSONA** on 26 June 2014 about two weeks after its publication.<sup>812</sup> Yet, **NGAISSONA** persisted in denying the Anti-Balaka's commission of crimes, and continued to involve himself in the group's leadership as he had done before becoming its National Coordinator. This again reveals the intent underpinning his earlier contributions.

311. **NGAISSONA**'s acknowledgement that he would be responsible for their crimes if they continued because of his position,<sup>813</sup> demonstrates his acute knowledge of the Anti-Balaka's intention to commit such crimes, including the Charged Crimes. **NGAISSONA**'s later efforts to distance himself from the Anti-Balaka's commission of crimes in purportedly transforming the group into a political party at the end of 2014 makes his intent equally clear.<sup>814</sup>

<sup>806</sup> [CAR-OTP-2092-1015](#); [CAR-OTP-2092-1017](#), from [00:13:04] to [00:13:45].

<sup>807</sup> See e.g. [CAR-OTP-2042-1873](#), from [00:01:40] to [00:07:00] and its transcript [CAR-OTP-2107-9243](#), at 9244-9245, l.1-55; [CAR-OTP-2057-0963](#), at 0963-0964; [CAR-OTP-2029-0629](#), at 0629-0633; [CAR-OTP-2010-0078](#), at 0078-0079; [CAR-OTP-2001-4426](#), at 4426-4427; [CAR-OTP-2001-4603](#), at 4603-4606; [CAR-OTP-2001-4441](#), at 4441-4443; [CAR-OTP-2023-1863](#), from [00:07:50] to [00:12:24] and its transcript, [CAR-OTP-2122-9401](#), at 9404-9405, l.96-158; [CAR-OTP-2042-4615](#), from [00:09:45] to [00:12:45] and its transcript, [CAR-OTP-2107-9246](#); [CAR-OTP-2082-0787](#), at 0787-0788; [CAR-OTP-2061-1427](#); [CAR-OTP-2082-0793](#), at 0794-0795, 0801; [CAR-OTP-2088-2398](#), at 2399; [CAR-OTP-2092-0990](#), from [00:00:00-00:01:12] and its transcript, [CAR-OTP-2127-6707](#); [CAR-OTP-2073-1329](#) from [00:00:30] to [00:03:26] and its transcript and translation, [CAR-OTP-2127-6548](#) and [CAR-OTP-2127-6597](#); [CAR-OTP-2001-6752](#), at 6753; [CAR-OTP-2001-4623](#). See also **P-2232**: [CAR-OTP-2100-2569-R01](#), at 2574, para.27.

<sup>808</sup> See [CAR-OTP-2001-2707](#), at 2707-2768; [CAR-OTP-2001-2874](#); [CAR-OTP-2001-6115](#); [CAR-OTP-2001-2769](#); [CAR-OTP-2001-2861](#); [CAR-OTP-2001-2564](#); [CAR-OTP-2001-2516](#).

<sup>809</sup> [CAR-OTP-2001-0835](#); [CAR-OTP-2001-7017](#); [CAR-OTP-2001-5386](#); [CAR-OTP-2092-1015](#).

<sup>810</sup> [CAR-OTP-2124-0605](#), at 0668, 689-690.

<sup>811</sup> [CAR-OTP-2124-0604](#), at 0615.

<sup>812</sup> [CAR-OTP-2124-0604](#); attaching [CAR-OTP-2124-0605](#).

<sup>813</sup> See **P-0801**: [CAR-OTP-2074-2335-R01](#), at 2341-2343, l.181-256.

<sup>814</sup> **P-2232**: [CAR-OTP-2090-0561-R03](#), at 0594, para.250.

g) *Despite this knowledge, NGAISSONA continued to finance the Anti-Balaka*

312. **NGAISSONA**'s intent regarding his prior contributions is also demonstrated in his continued efforts to provide money to ComZones in BANGUI and the provinces for, *inter alia*, purchasing weapons and ammunition; his efforts to secure the supply of ammunition; his coordination with MOKOM in the flow of supplies between ComZones, including ammunition; and coordinating with MOKOM and **YEKATOM** in sending Anti-Balaka elements from BANGUI to the provinces as reinforcements, with weapons, ammunition and military expertise.<sup>815</sup>

h) *NGAISSONA contributions were made with requisite intent*

313. **NGAISSONA** intended his several contributions to the crimes committed pursuant to the organisational Criminal Policy and Common Purpose by his conduct as set out herein.<sup>816</sup>

314. In particular, **NGAISSONA**'s role in the initial strategy to claim and/or reclaim power in CAR and conduct in the implementation of this objective, was so ubiquitous that he obviously knew that it would contribute, and was, contributing, to the Charged Crimes. **NGAISSONA**'s role within the Anti-Balaka was central,<sup>817</sup> as his contributions also reflect. The centrality of his position likewise reflected the scope of his knowledge of Anti-Balaka operations, from the political, to the tactical, to the administrative.

315. **NGAISSONA**'s intention in respect of his contributions to the Charged Crimes is reflected in his subsequent acts, as noted.<sup>818</sup> His intent is shown not only by his several

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<sup>815</sup> See **P-2232**: [CAR-OTP-2090-0561-R03](#), at 0577-0583, paras.102-136, 146, 159-163, 168-171; [CAR-OTP-2100-2569-R01](#), at 2584-2586, paras.83-84, 88-93; **P-0808**: [CAR-OTP-2093-0010-R01](#), at 0023, para.71; [CAR-OTP-2025-0324-R03](#), at 0336-0337, para.86; **P-0966**: [CAR-OTP-2031-0241-R01](#), at 0255, 0257, paras.78, 91; **P-0884**: [CAR-OTP-2072-1715-R01](#), at 1731-1732, l.550-604; [CAR-OTP-2072-1739-R01](#), at 1740-1749; [CAR-OTP-2072-1773-R03](#), at 1774-1777; [CAR-OTP-2072-1814-R01](#), at 1816-1818, l.55-115; **P-1074**: [CAR-OTP-2094-0228-R02](#), at 0256, para. 162; **P-1521**: [CAR-OTP-2046-0603-R01](#), at 0615, para.73; **P-0954**: [CAR-OTP-2048-0171-R02](#), at 0189, para.106; **P-1339**: [CAR-OTP-2041-0741-R01](#), at 0755, para.99; **P-2328**: [CAR-OTP-2099-0165-R01](#), at 0174, 0178, 0187-1088, paras.47-48, 65, 113-116. See also Confirmation Decision, para. 174.

<sup>816</sup> See above, paras.250-292.

<sup>817</sup> **P-2012**: [CAR-OTP-2091-0127-R01](#), at 0134, para.33.

<sup>818</sup> See ICC-01/14-01/18-703-Conf, para. 51; ICC-02/04-01/15-T-147-Red2-ENG, p. 7, lines 3-12; ICC-01/04-02/06-2359, para. 696; ICC-01/09-01/11-2027-AnxI, Dis. Op. Carbuccion Herrera, para. 64; [Mrkšić AJ](#), para. 41; [Kunarac AJ](#), para.100; *Prosecutor v. Milošević*, Case No. IT-98-29/1-T, Judgment, 12 December 2007, paras.918-919. See also e.g., [Furundžija TJ](#), paras.204, 229-230 (citing the International Law

positive acts but by his failure to act to impede the Anti-Balaka's commission of the Charged Crimes, and its widespread attack of the Muslim population in western CAR, whether or not required by a legal duty. **NGAISSONA** acknowledged, *inter alia*, that “*tant que coordonnateur mon rôle vise à éviter les dérapages et les débordements.*”<sup>819</sup>

316. **NGAISSONA**'s failures however, betray his intent. They demonstrate his abiding commitment to the strategy and objective of claiming or reclaiming power in the CAR,<sup>820</sup> and to the criminal means of doing so — that is, the Anti-Balaka's organisational Criminal Policy that his confirmed contributions all helped to establish and promote.

317. As a principal and powerful figure in the Anti-Balaka, **NGAISSONA** could and did issue orders.<sup>821</sup> He admitted “[*q*]uand je donne l'ordre à ces enfants, je pense... immédiatement ça suffit.”<sup>822</sup> Despite this authority, **NGAISSONA** failed to take any meaningful action within his ability, to obstruct or frustrate the Anti-Balaka's commission of crimes against Muslim civilians in western CAR. **NGAISSONA** did not direct the halting of Anti-Balaka military operations and actions; the group's withdrawal from deployments in western CAR, including the Muslim enclaves; nor act to protect imperilled Muslim civilians within the custody or control of the Anti-Balaka, including pursuant to his duty to do so under CAR national law.<sup>823</sup> His further failures are set out at paragraph 169 (i – xii) of the DCC,<sup>824</sup> which are incorporated by reference herein.

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Commission's Commentary concerning ex post facto assistance); [Blagojević & Jokic AJ](#), para.199; *Prosecutor v Haradinaj, et al.*, Case No. IT-04-84-T, Judgment, 3 April 2008, para.145.

<sup>819</sup> [CAR-OTP-2003-1076](#), at 1087.

<sup>820</sup> See above, paras.66-108.

<sup>821</sup> See above, paras.129-130, 285-286.

<sup>822</sup> [CAR-OTP-2014-0749](#), from [00:01:11] to [00:01:35] and its transcript [CAR-OTP-2122-9374](#), at 9375, 1.19-21. See [CAR-OTP-2023-1845](#), from [00:05:30] to [00:06:00], and its transcript [CAR-OTP-2107-1504](#). See also [CAR-OTP-2003-1076](#), at 1104.

<sup>823</sup> See Article 84, CAR Code pénal (« Sera puni d'un emprisonnement de trois mois à cinq ans et d'une amende de 100.002 à 500.000 francs, quiconque s'abstient volontairement de porter à une personne en péril l'assistance que, sans risque pour lui ni pour les tiers, il pouvait lui prêter soit par son action personnelle, soit en provoquant un secours »). See e.g. *Prosecutor v. Nyiramasuhuko et al*, Judgment and Sentence, ICTR-98-42-T, 24 June 2011, para.5893 (basing on article 256 of Rwanda's Penal Code, which like article 84 of CAR's Code pénal, imposed a duty on every person to intervene regardless of position of authority); *Prosecutor v. Nyiramasuhuko et al*, Judgment, ICTR-98-42-A, 14 December 2015, ([Nyiramasuhuko et al., AJ](#)), para.2194 (Appeals Chamber upheld the Trial Chamber's reliance on article 256 of Rwanda's Penal Code).

<sup>824</sup> See DCC, para. 169.

i) *Conclusion*

318. Thus, **NGAISSONA**'s continued involvement with the Anti-Balaka as a leader within the group's *de facto* structure and formalised National Coordination, and his promotion of the Anti-Balaka's practical acts and ideological objectives during its pervasive campaign of violence against Muslim civilians in western CAR pursuant to the Criminal Policy and Common Purpose through his acts and omissions, demonstrates his intent concerning the charged contributions.

319. As the incidents described below demonstrate, regarding the charged article 7(1) crimes, **NGAISSONA** knew and/or intended that the conduct was part of a widespread or systematic attack directed against a civilian population.<sup>825</sup> Further, **NGAISSONA** was aware of the following factual circumstances: (i) the lawful presence of Muslim civilians in the relevant locations from which they were forcibly transferred, deported or displaced, and that such displacement was not justified by security or military necessity, or other legally permissible grounds; (ii) the gravity of the conduct underlying the severe deprivation of liberty of enclaved and/or detained persons in the relevant locations, and the character thereof; (iii) that the acts amounting to "torture" did not arise from, and were not inherent in or incidental to, any lawful sanction; and (iv) the character of the acts amounting to "inhumane acts".

320. Finally, as the incidents described below demonstrate, regarding the charged article 8(2)(1) crimes, **NGAISSONA** was aware, *inter alia*, of the following factual circumstances: (i) the existence of an armed conflict; (ii) the objects of attack in the relevant locations included the Muslim civilian population as such, individual civilians, and persons *hors de combat*; Muslim houses, shops and mosques which were not military objectives; (iii) that persons killed, mutilated, subject to cruel treatment, torture, and/or outrages upon personal dignity, were civilians taking no active part in hostilities, or persons *hors de combat*; and (iv) that property of the adversary was protected under international law and its destruction was not justified by military necessity.

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<sup>825</sup> [\*Ntaganda TJ\*](#), para.1170 (finding that "[t]his requirement will be satisfied if it is shown that the perpetrator was aware of the circumstances that established the widespread or systematic attack against a civilian population for example, by being aware of repeated or coordinated violence against a certain civilian population that was not spontaneous or unintended").

## VI. INDIVIDUAL CRIMINAL RESPONSIBILITY OF YEKATOM

### A. OVERVIEW

321. Alfred **YEKATOM** was born on 23 January 1975 in BIMBO, CAR.<sup>826</sup> He was among the group of “*ex-libérateurs*” who fought for BOZIZE in the 2003 *coup d’état* that brought him to power (“2003 Rebellion”).<sup>827</sup> At the time of the 24 March 2013 *Coup*, **YEKATOM** was a *caporal-chef* in the FACA.<sup>828</sup> After BOZIZE’s overthrow, he fled to the DRC.<sup>829</sup>

322. By June 2013, **YEKATOM** had gathered thousands of elements in KALANGOI, DRC where he trained and developed them.<sup>830</sup> From at least September 2013 through to December 2014, **YEKATOM** commanded 3,000 elements, including approximately 200 FACA.<sup>831</sup> He organised his Group in a military-like hierarchy, comprised of subgroups led by his deputies OUANDJIO, Habib BEINA, and subordinate commanders.<sup>832</sup> He exercised effective control over his elements and issued orders and instructions directly to them, or through his deputies and commanders.<sup>833</sup> His subordinates followed his orders, including instructions to commit crimes.<sup>834</sup>

323. **YEKATOM** presented himself as a powerful ComZone, and was recognised by the Anti-Balaka leadership as such.<sup>835</sup> His subordinates also recognised his authority as the leader of **YEKATOM**’s Group, as did the CAR authorities and the international

<sup>826</sup> [CAR-OTP-2017-0210](#), at 0210; [CAR-OTP-2039-0071](#), at 0071.

<sup>827</sup> **P-2232**: [CAR-OTP-2100-2569-R01](#), at 2577, para.43; **P-2027**: [CAR-OTP-2078-0059-R02](#), at 0078, para.111; **P-2269**: [CAR-OTP-2111-0336-R01](#), at 0340, para.27.

<sup>828</sup> [CAR-OTP-2062-0657](#), l.10-160; [CAR-OTP-2065-0396](#), from [00:00:23] to [00:01:40] and its transcript and translation [CAR-OTP-2107-6918](#), at 6919, l.13-34, and [CAR-OTP-2107-7050](#), at 7052, l.13-34; [CAR-OTP-2039-0063](#), at 0063.

<sup>829</sup> *See above*, paras.7, 84, 86.

<sup>830</sup> *See above*, para.88.

<sup>831</sup> *See above*, para.89.

<sup>832</sup> *See above*, paras.86, 89.

<sup>833</sup> *See below*, paras.357, 373-376.

<sup>834</sup> *See below*, para.374.

<sup>835</sup> “ComZone” refers to a commander or leader of a group of Anti-Balaka elements responsible for a certain area and/or territory. *See also* [CAR-OTP-2094-7645](#) at 7648.

community.<sup>836</sup> **YEKATOM** issued press releases<sup>837</sup> and presented his Group before the French press as early as 7 December 2013.<sup>838</sup>

324. YEKATOM's Group reported to and/or coordinated with the Anti-Balaka leadership, including **NGAISSONA**.<sup>839</sup> Like other Anti-Balaka groups, YEKATOM's Group fell within the structure of the Anti-Balaka leadership ("*de facto* Coordination") and, after its formalisation, the National Coordination.<sup>840</sup>

325. **YEKATOM** helped execute the 5 December 2013 Attack on BANGUI with other Anti-Balaka leaders such as MOKOM. This attack was coordinated with contemporaneous Anti-Balaka attacks in other towns, including BOSSANGO. On that date, **YEKATOM** led his Group (which included child soldiers) in the attack of various Seleka positions and Muslim civilians alike, killing some, and forcing many Muslim residents of BANGUI and BOEING to flee.<sup>841</sup> Shortly thereafter, **YEKATOM** established a base for his Group at the YAMWARA School in BOEING. At this base, he and his elements detained and tortured civilians perceived to be affiliated with or supportive of the Seleka.<sup>842</sup> From there, **YEKATOM** ordered his Group to take over the villages along the route from BANGUI to MBAIKI, specifically the PK9 – MBAIKI axis, including the installation of checkpoints (sometimes manned by children), and the murder and displacement of the remaining Muslim civilian population. By March 2014 at the latest, **YEKATOM**'s Group controlled distinct territory in southwestern CAR and established bases there, particularly in the LOBAYE Prefecture along the PK9 – MBAIKI axis.<sup>843</sup>

326. During the commission of the crimes, particularly in the LOBAYE Prefecture, **NGAISSONA** continued to advance the Anti-Balaka's Criminal Policy and Common Purpose, including by continuing to deny the Anti-Balaka's commission of serious crimes against Muslim civilians, even in the face of their deportation *en masse* from MBAIKI

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<sup>836</sup> See below, para.373.

<sup>837</sup> [CAR-OTP-2032-0074](#); [CAR-OTP-2032-0059](#).

<sup>838</sup> [CAR-OTP-2065-0396](#), from [00:00:00] to [00:01:40] and its transcript and translation [CAR-OTP-2107-6918](#), at 6919, l.1-35, and [CAR-OTP-2107-7050](#), at 7052, l.1-35.

<sup>839</sup> See above, paras.84, 86, 90; see below, paras.415-416.

<sup>840</sup> See below, para.364.

<sup>841</sup> See below, paras.393-409.

<sup>842</sup> See below, paras.444-455.

<sup>843</sup> See below, paras.462-478.

through BANGUI.<sup>844</sup> And, after these crimes were accomplished, **NGAISSONA** further validated **YEKATOM**'s actions by accepting **YEKATOM**'s continued membership in the Anti-Balaka, recognising him as a key-member, and designating him to represent the Anti-Balaka at high-level meetings and negotiations, such as meetings with SAMBA-PANZA in January 2014,<sup>845</sup> and the July 2014 BRAZZAVILLE Summit.<sup>846</sup>

327. The following sections provide the law for each of the confirmed modes of liability, followed by an analysis of **YEKATOM**'s contributions to the confirmed crimes, and conclude in highlighting salient evidence relevant to **YEKATOM**'s intent and knowledge.

## B. LEGAL REQUIREMENTS

328. **YEKATOM** is individually criminally responsible for Counts 1-6, 8, 11-17, 24-29, pursuant to article 25(3)(a) for jointly committing them with or through others, and article 25(3)(b) for ordering their commission. This section first provides the law for each of these modes of liability, followed by an analysis of **YEKATOM**'s contributions to the confirmed crimes, and then concludes with the evidence relevant to **YEKATOM**'s intent and knowledge.

### a) *Article 25(3)(a) – co-perpetration (direct and indirect) and indirect perpetration*

329. The Pre-Trial Chamber confirmed **YEKATOM**'s alleged responsibility for the commission of the Charged Crimes “jointly with another or through another,” under article 25(3)(a).<sup>847</sup> He is thus liable as a co-perpetrator (direct co-perpetration and its variation of indirect co-perpetration) and as an indirect perpetrator.<sup>848</sup>

<sup>844</sup> See below, paras.469, 481.

<sup>845</sup> **P-0801**: [CAR-OTP-2074-2195-R01](#), at 2202-2205, 1.242-344; **P-0952**: [CAR-OTP-2014-0755](#), from [07:16:00] to [08:48:00], and its transcript [CAR-OTP-2122-7370](#), at 7372, 1.71-81; **P-0952**: [CAR-OTP-2107-0784-R01](#), at 0796-0797, 1.408-457 and Annex 8 ([CAR-OTP-2087-9027](#)); [REDACTED].

<sup>846</sup> [CAR-OTP-2030-0267](#), at 0267; [CAR-OTP-2001-6924](#); **P-0808**: [CAR-OTP-2093-0010-R01](#), at 0028, para.101-102; [CAR-OTP-2099-1360](#), from [00:00:00] to [00:01:55] and its transcript [CAR-OTP-2107-1600](#), at 1601-1602, 1.1-50.

<sup>847</sup> Confirmation Decision, p.107.

<sup>848</sup> ICC-01/14-01/18-576-Conf, para.7; ICC-01/14-01/18-703-Conf, para.24.

330. Accordingly, the elements of these three forms of liability arising under article 25(3)(a) are set out below.<sup>849</sup>

### Direct co-perpetration

331. To establish liability under article 25(3)(a) for direct co-perpetration, the following elements must be fulfilled: (a) an agreement or common plan exists between at least two persons, (b) the co-perpetrator(s) provided an essential contribution to the agreement or common plan which result in the fulfilment of the material elements of the crime(s); and (c) the accused acted with the requisite intent and knowledge.

#### **i. Existence of an agreement or common plan**

332. Liability as a direct co-perpetrator in the commission of a crime requires the existence of a **common plan or agreement between two or more persons**.<sup>850</sup> This plan or agreement ties the co-perpetrators together, and justifies the reciprocal imputation of their respective acts.<sup>851</sup> The plan or agreement itself does not have to be directed to a criminal activity, as long as it includes “a critical element of criminality”, namely that its implementation will, in the ordinary course of events, lead to the commission of a crime.<sup>852</sup>

333. The plan or agreement may be **previously** arranged or materialise **extemporaneously**.<sup>853</sup> It need **not be written or explicit**, and may be established directly or **inferred** from the circumstances, including the subsequent concerted action of the co-perpetrators committing the crimes.<sup>854</sup> In addition, evidence of an accused’s interactions with third persons (*i.e.*, persons

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<sup>849</sup> Although the Confirmation Decision did not analyse YEKATOM’s criminality under the theory of a common plan (Confirmation Decision, para.60), the Trial Chamber is not bound by, and may depart from, the Pre-Trial Chamber’s interpretation of the law as long as it does not exceed the facts and circumstances set out in the charges (See *e.g.* [ICC-02/04-01/15-428](#), para.31 (“the Defence can raise at trial the matter of the proper interpretation of article 25(3)(c) of the Statute as the Trial Chamber is not legally bound to follow the Chamber’s interpretation in the Confirmation Decision”); [ICC-01/12-01/18-498-Red2](#), paras.36-37).

<sup>850</sup> [Katanga CD](#), para.522; [Lubanga CD](#), para.343; [Lubanga TJ](#), para.980-988; [Bemba, et al TJ](#), para.65.

<sup>851</sup> [Lubanga AJ](#), para.445; [Bemba, et al AJ](#), para.818; [Bemba, et al TJ](#), para.65.

<sup>852</sup> [Lubanga TJ](#), para.984; [Bemba, et al TJ](#), para.67; [Lubanga CD](#), para.344.

<sup>853</sup> [Lubanga AJ](#), para.445.

<sup>854</sup> [Lubanga TJ](#), paras.984, 988; [Bemba, et al TJ](#), para.66; [Lubanga CD](#), para.345; [Kenyatta CD](#), para.399; [Ruto CD](#), para.301; [Bemba, et al AJ](#), para.1306.

outside of the agreement or plan) may properly bear on the accused's participation in the common plan as a whole.<sup>855</sup>

## ii. Essential contribution

334. The second objective element of co-perpetration is that the co-perpetrators must make an essential contribution to the implementation of the agreement or common plan, or within its "framework".<sup>856</sup> An essential contribution gives rise to the notion of joint control over the offence(s).<sup>857</sup> Thus, by making an intentional and essential contribution to the implementation of the common plan or agreement, the co-perpetrator is liable for all the crimes that occur within its framework.<sup>858</sup>

335. Several factors may determine whether a contribution is essential to the implementation of common plan or agreement,<sup>859</sup> including the accused's *role* in its implementation, taking into account the division of tasks<sup>860</sup> and the nature of his or her individual *contribution*.<sup>861</sup> The dispositive issue is whether the co-perpetrator exercised joint control over the crime and the resulting power to frustrate its commission. Thus, it is required that the contribution was such that without it "the crime would not have been committed or would have been committed in a significantly different way".<sup>862</sup>

336. In addition, the assessment of the essential nature of the contribution is based on a **cumulative assessment of all relevant** contributions to the agreement or common plan, and not on an isolated assessment of individual acts.<sup>863</sup> The activities of the accused – taken as a whole – need to amount to an essential contribution to the crimes.

<sup>855</sup> [Bemba, et al AJ](#), paras.763-764, 767.

<sup>856</sup> [Bemba, et al AJ](#), paras.818-820; [Lubanga AJ](#), paras.445, 469.

<sup>857</sup> [Lubanga Appeals Judgment](#), para.473; [Lubanga Confirmation Decision](#), para.347.

<sup>858</sup> [Bemba, et al AJ](#), para.1307; *see also* para.1029; [Bemba, et al TJ](#), para.62. According to the Appeals Chamber the common plan or agreement ties the co-perpetrators together and justifies the reciprocal imputation of their respective acts: [Lubanga AJ](#), para.445; [Bemba, et al AJ](#), para.818.

<sup>859</sup> *so* para.1307; *see further* [Lubanga AJ](#), para.445; [Lubanga TJ](#), paras.1000, 1004.

<sup>860</sup> [Bemba, et al AJ](#), para.812, 824.

<sup>861</sup> [Lubanga AJ](#), para.473; [Bemba, et al AJ](#), para.820; [Bemba, et al TJ](#), para.69; [Katanga CD](#), para.525.

<sup>862</sup> [Bemba, et al AJ](#), para.1029.

<sup>863</sup> [Bemba, et al AJ](#), paras.820, 825; [Blé Goudé CD](#), para.135. As to the assessment of the essential nature of a contribution to the common plan, *see* [Bemba, et al AJ](#), paras.812, 824, 1029; [Lubanga TJ](#), paras.1000-1001.

<sup>864</sup> [Bemba, et al AJ](#), para.812; [Lubanga AJ](#), para.488-490.

337. The co-perpetrator need intentionally contribute to the commission of each specific crime or criminal incident.<sup>864</sup> Moreover, the co-perpetrator may contribute to the crime at *any stage* of its commission, including its **planning and preparation, attempt**, or intent stage – that is, when the agreement is conceived,<sup>865</sup> and even if the contours of all the crimes or offences that will be committed as part of implementing the plan are unknown.<sup>866</sup>

### iii. The accused acted with the requisite intent and knowledge

338. To establish intent, the Prosecution must show that the accused meant to engage in the relevant conduct.<sup>867</sup> In relation to a consequence, the Prosecution must show that the accused (a) meant to cause the consequence; or (b) was aware that the consequence would occur in the ordinary course of events.<sup>868</sup> In the context of co-perpetration, the Prosecution must establish that the accused was aware, at least, that implementing the common plan will, in the ordinary course of events, result in the commission of the crimes charged.<sup>869</sup> The accused need not have been aware of the *specific* crimes that resulted from the implementation of the common plan.<sup>870</sup> Instead, the accused need only have been aware that the implementation of the common plan would, in the ordinary course of events, result in the commission of the *type* of offences charged.<sup>871</sup>

339. To establish knowledge, the Prosecution must show that the accused was aware that the circumstances relevant to the type of the Charged Crimes existed, or that, in the ordinary course of events, the type of the crimes would be committed.<sup>872</sup> In addition, the Prosecution must establish that the accused was aware (a) that the common plan or agreement involved an element of criminality;<sup>873</sup> and (b) of the factual circumstances that enabled him or her, together with other co-perpetrators, to jointly exercise functional control over the crime.<sup>874</sup> This latter aspect is established by showing that the accused was

<sup>864</sup> [Bemba, et al AJ](#), paras.812, 821.

<sup>865</sup> [Bemba, et al AJ](#), paras.819,810; [Lubanga AJ](#), para.469, 473; [Bemba, et al TJ](#), para.69.

<sup>866</sup> [Bemba, et al AJ](#), paras.821.

<sup>867</sup> Article 30(2)(a) of the Statute.

<sup>868</sup> See article 30(2)(b.) See also, [Ruto & Sang CD](#), para.335; [Lubanga CD](#), paras.350-352.

<sup>869</sup> [Bemba, et al TJ](#), paras.67, 70; [Lubanga TJ](#), para.1008; [Katanga CD](#), para.533.

<sup>870</sup> [Brđanin AJ](#), paras.418, 420-425; [Brima et al., AJ](#), para.76.

<sup>871</sup> [Bemba, et al AJ](#), para.1308. Albeit in the context of joint criminal enterprise, see, e.g., [Šainović et al., AJ](#), para.1491; [Kvočka et al., AJ](#), para.276.

<sup>872</sup> Article 30(3).

<sup>873</sup> [Lubanga CD](#), paras.361-365.

<sup>874</sup> [Lubanga TJ](#), para.1008; [Lubanga CD](#), para.366; [Katanga CD](#), para.538; [Katanga TJ](#), paras.1399, 1414-1415.

aware of his or her critical role in the implementation of the common plan and his or her ability to control, jointly with others, the organised structure of power.<sup>875</sup> Thus, a person who jointly with others formulates the relevant strategy or plan, becomes involved in directing or controlling other persons, or determines the roles of those involved in the offence would also be held accountable.<sup>876</sup>

#### Indirect co-perpetration

340. In addition to the above elements for direct co-perpetration, the following elements must be fulfilled for indirect co-perpetration: (a) use of another person or an organised and hierarchical apparatus of power; (b) the co-perpetrators' joint control over the other person or organised and hierarchical apparatus of power; and (c) the accused awareness of the fundamental features of the organisation, through which the co-perpetrators jointly exercise functional control over the crime.

#### **iv. Use of another person or organised and hierarchical apparatus of power**

341. Indirect co-perpetrators may commit a crime through one or more persons, or acting through an organised and hierarchical apparatus of power.<sup>877</sup> Under the latter scenario, the Prosecution must establish the existence of an organisation that is characterised by “functional automatism”.<sup>878</sup> This requires proof that the implementation of the co-perpetrators' will is independent from the identity or intent of the individual members of the organisation and cannot be compromised by any particular subordinate's failure to comply.<sup>879</sup> This can be established, for instance, through specific attributes of the organisation, such as a large enough size to “provide a sufficient supply of subordinates” in order to replace anyone who refused to act,<sup>880</sup> or through the existence of “intensive, strict, and violent training regimes”.<sup>881</sup>

#### **v. The co-perpetrators' joint control over the other person or organised and hierarchical apparatus of power**

<sup>875</sup> [Lubanga TJ](#), para.1013; [Katanga TJ](#), para.1415; [Lubanga CD](#), para.367; [Katanga CD](#), para.539.

<sup>876</sup> [Lubanga TJ](#), para.1004 [Bemba, et al TJ](#), para.69.

<sup>877</sup> [Katanga CD](#), paras.488, 495-498, 500-510; [Katanga TJ](#), paras.1403-1405, 1407, 1412; [Kenyatta CD](#) (indirect co-perpetration), para.297; [Ruto & Sang CD](#) (indirect co-perpetration), para.292.

<sup>878</sup> [Katanga TJ](#), paras.1408-1410; [Katanga CD](#), paras.511-514.

<sup>879</sup> [Katanga CD](#), paras.516-517; [Katanga TJ](#), paras.1408-1410.

<sup>880</sup> [Katanga CD](#), para.516.

<sup>881</sup> [Katanga CD](#), para.518.

342. Where the accused is alleged to have acted through an organised and hierarchical apparatus of power, the Prosecution must prove that the co-perpetrators had joint control over the crimes<sup>882</sup> by controlling the organisation, which they could steer towards the implementation of the common plan.<sup>883</sup> It is not necessary that each co-perpetrator was individually in a position to control the organisation. Control is exercised collectively by all co-perpetrators.<sup>884</sup>

343. Control over the organisation may be shown by establishing that the co-perpetrators jointly had the ability to secure the commission of the crimes through a mechanism that enabled them to ensure automatic compliance with their orders.<sup>885</sup> In addition, the co-perpetrators joint control over the organisation may also be shown for instance, if any one of them possessed a power of veto within the organisation or if they had the capacity to hire, train, impose discipline and provide resources to the subordinates.<sup>886</sup>

#### Indirect perpetration

344. Indirect perpetration involves the commission of a crime through another person regardless of whether that person is criminally responsible. An offence may be indirectly perpetrated through one or more persons, or as in the present case, an organisation: YEKATOM's Group.<sup>887</sup>

345. Criminal responsibility as an indirect perpetrator under article 25(3)(a), requires that: (i) the accused commits the crime through another person or through an organisation; (ii) that the accused has control over the will of the direct perpetrator(s) or over the organisation; (iii) the organisation must consist of an organised and hierarchical apparatus of power; and (iv) the execution of the crimes must be secured by almost automatic

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<sup>882</sup> [Katanga TJ](#), para.1399; [Katanga CD](#), para.488. [Kenyatta CD](#) (indirect co-perpetration), para.297; [Ruto & Sang CD](#) (indirect co-perpetration), para.292.

<sup>883</sup> [Blè Goudè CD](#), para.136; [Katanga TJ](#), paras.1404, 1411-1412; [Katanga CD](#), para.510; *see also* paras.500-509, 514.

<sup>884</sup> [Blè Goudè CD](#), para.136. According to the Court's jurisprudence, "[n]one of the participants [in a common plan] exercises, individually, control over the crime as a whole but, instead, the control over the crime falls in the hands of a collective as such." *See e.g.* [Lubanga TJ](#), para.994; [Bemba, et al TJ](#), para.62; [Blè Goudè CD](#), para.136; [Katanga CD](#), paras.524 and 488(b), referring to "joint control over the crime" and control "together with others".

<sup>885</sup> [Katanga CD](#), paras.515-516, 518; [Kenyatta CD](#), para.297; [Ruto & Sang CD](#), para.292; [Bemba Arrest Warrant Decision](#), para.78.

<sup>886</sup> [Katanga CD](#), paras.513, 518.

<sup>887</sup> [Ntaganda TJ](#), paras.777-778, 812-825; [Bemba, et al TJ](#), para.56; [Katanga CD](#), para.498.

compliance with the accused's orders.<sup>888</sup> Although the accused must have the requisite knowledge and intent with respect to the commission of the crime, the *mens rea* of the direct perpetrators is irrelevant.<sup>889</sup>

b) *Article 25(3)(b) – ordering*

346. The elements of “ordering” under article 25(3)(b) are:<sup>890</sup> (i) the accused was in a position of authority; (ii) the accused instructed another person in any form to either commit a crime, or to perform an act or omission in the execution of which a crime was carried out; (iii) the order had a direct effect on the commission or attempted commission of the crime; and (iv) the accused acted with intent and knowledge.

**i. Position of authority**

347. This requires that the existence of a superior-subordinate relationship between the accused (as the instigator or person issuing the order) and the perpetrator of the crime.<sup>891</sup> According to the established jurisprudence of the *ad hoc* international criminal tribunals, this position of authority may be differentiated from the superior-subordinate relationship for command responsibility under article 28. It does not require proof of effective command, control, or authority,<sup>892</sup> nor does it require an official or formal superior-subordinate relationship.<sup>893</sup> For the purposes of “ordering”, it is sufficient “that there is proof of some position of authority on the part of the accused that would compel the perpetrator to commit a crime pursuant to the accused's order”.<sup>894</sup> It suffices that the direct perpetrators *regarded* the accused as “speaking with authority”,<sup>895</sup> in the sense that they

<sup>888</sup> [Ntaganda TJ](#), paras.777-778, 820-824; [Katanga TJ](#), paras.1398-1412; [Katanga CD](#), paras.487, 495-518; *Prosecutor v. Gaddafi & Al-Senussi*, Decision on the “Prosecutor's Application Pursuant to Article 58 as to Muammar Mohammed Abu Minyar GADDAFI, Saif Al-Islam GADDAFI and Abdullah ALSENUSSI”, ICC-01/11-01/11-1, 27 June 2011, para.69.

<sup>889</sup> *Prosecutor v. Omar Al Bashir*, Public Redacted Version of “Decision on Prosecution's Application for a Warrant of Arrest against Omar Hassan Ahmad Al Bashir,” ICC-02/05-01/09-3, fn.154.

<sup>890</sup> [Ntaganda CD](#), para.145, [Mudacumura Arrest Warrant Decision](#), para.63.

<sup>891</sup> [Bemba, et al TJ](#), para.77; [Ntaganda CD](#), para.145; [Mudacumura Arrest Warrant Decision](#), para.63.

<sup>892</sup> [Gacumbitsi AJ](#), para.182; [Kamuhanda AJ](#), para.75; [Semanza AJ](#), para.361; [Galić AJ](#), para.176; [Boškoski and Tarčulovski AJ](#), para.164.

<sup>893</sup> [Semanza AJ](#), para.361; [Karera AJ](#), para.211; [Setako AJ](#), para.240; [Nahimana et al., AJ](#), para.481, fn.1162; [Renzaho AJ](#), para.315; [Kamuhanda AJ](#), para.75; [Galić AJ](#), para.176; [Kordić and Čerkez AJ](#), para.28; [Boškoski and Tarčulovski AJ](#), para.164.

<sup>894</sup> [Karera AJ](#), para.211; [Semanza AJ](#), para.361; [Boškoski and Tarčulovski AJ](#), para.164.

<sup>895</sup> [Semanza AJ](#), para.363.

*perceived*<sup>896</sup> his or her words as orders to perform certain acts or omissions, and that they felt obliged to comply.

348. The accused's position of authority may be informal or purely temporary,<sup>897</sup> and it may emanate for instance from his or her "social, economic, political or administrative standing".<sup>898</sup> It may be inferred from the fact that a subordinate acted upon an order that was directed at him or her.

**ii. The person instructed another person in any form to either commit a crime, or to perform an act or omission in the execution of which a crime is carried out**

349. The accused must prompt another person to commit a crime or to perform another act or omission in the execution of which a crime was carried out.<sup>899</sup> The term "prompt" has been defined as "exerting psychological influence on another person".<sup>900</sup>

350. Ordering thus requires proof that the accused used his or her position of authority to prompt another person to commit a crime or to perform another act.<sup>901</sup> It further requires direct or circumstantial proof of positive action by the accused.<sup>902</sup>

351. An accused may exert influence "in any form"<sup>903</sup> and an order may be performed directly on the physical perpetrators of the crimes or may be committed through an intermediary.<sup>904</sup> It is not necessary that the accused was present when the instigated crime was committed.<sup>905</sup>

**iii. The order had a direct effect on the commission of the crime**

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<sup>896</sup> [Gacumbitsi AJ](#), para.185.

<sup>897</sup> [Semanza AJ](#), para.363. See also [Setako AJ](#), para.240.

<sup>898</sup> [Gacumbitsi TJ](#), para.282; [Gacumbitsi AJ](#), para.185.

<sup>899</sup> [Bemba, et al TJ](#), para.73; [Gbagbo CD](#), para.243; [Blé Goudé CD](#), para.159; [Bemba, et al CD](#), para.34; [Al Mahdi CD](#), para.25; [Ongwen CD](#), para.42; [Ntaganda CD](#), para.153; [Mudacumura Arrest Warrant Decision](#), para.63. See also [Bemba, et al AJ](#), para.848 (in the context of soliciting).

<sup>900</sup> [Bemba, et al TJ](#), para.73.

<sup>901</sup> [Bemba, et al TJ](#), para.77.

<sup>902</sup> [Galić AJ](#), para.176. An act of ordering can be established by taking into account omissions ([Galić AJ](#), para.177). The existence of an order may be established through circumstantial or direct evidence ([Kamuhanda AJ](#), para.76; [Boškoski and Tarčulovski AJ](#), para.160; [Galić AJ](#), para.178).

<sup>903</sup> [Bemba, et al TJ](#), para.73; [Gbagbo CD](#), para.243; [Blé Goudé CD](#), para.159; [Bemba, et al CD](#), para.34; [Al Mahdi CD](#), para.25; [Ongwen CD](#), para.42; [Ntaganda CD](#), para.153. See also [Bemba, et al AJ](#), para.848 (in the context of soliciting). See also [Kamuhanda AJ](#), para.76; [Boškoski and Tarčulovski AJ](#), para.160.

<sup>904</sup> [Bemba, et al AJ](#), paras.847-848.

<sup>905</sup> See [Kordić and Čerkez AJ](#), para.27; [Nahimana et al., AJ](#), para.480; [Karera AJ](#), para.317; [Nyiramasuhuko et al., AJ](#), para.3327. See also [Šešelj AJ](#), paras.124, 131,153.

352. For all forms of liability under article 25(3)(b) it must be established that the accused's conduct had a direct effect on the commission or attempted commission of the crime.<sup>906</sup> The instigator need not have control over the crime<sup>907</sup> and the law does not otherwise qualify the degree to which the accused's conduct must impact its commission.<sup>908</sup> With respect to the related mode of liability of "solicitation," the Appeals Chamber in the *Bemba, et al.* case held that, "[w]hat matters is that there is a *causal relationship* between the act of instigation and the commission of the crime, in the sense that the accused person's actions prompted the principal perpetrator to commit the crime".<sup>909</sup> The same applies to the acts of instigation in general, including ordering.<sup>910</sup>

#### iv. The accused acted with the requisite intent and knowledge

353. To establish intent, the Prosecution must show that the accused meant to engage in the conduct that constitutes an order<sup>911</sup> and that he or she meant to contribute to the crime,<sup>912</sup> or that he or she was aware that the crime would be committed in the ordinary course of events as a consequence of the order.<sup>913</sup> This does require proof that the accused was aware that the order was the *sole* cause of the crime but that the crime would occur in the ordinary course of events, as a result of all relevant factors, including the order.<sup>914</sup>

354. To establish knowledge, the Prosecution must show that the accused was aware that the circumstances relevant to the Charged Crimes existed, or that, in the ordinary

<sup>906</sup> *Bemba, et al TJ*, para.81; *Ntaganda CD*, paras.145, 153; *Mudacumura Arrest Warrant Decision*, para.63.

<sup>907</sup> *Bemba, et al TJ*, para.80.

<sup>908</sup> *Contra Bemba, et al TJ*, paras.81, 86, referring to the instigator as the "intellectual author" of the offence, and distinguishing the degree of contribution under article 25(3)(b) from "abetting" under article 25(3)(c), while at the same time accepting that the instigator does not have "control" over the crime (para.80).

<sup>909</sup> *Bemba, et al AJ*, paras.847-848 (emphasis added). See also *Kordić and Čerkez AJ*, para.27; *Nahimana et al., AJ*, para.480; *Karera AJ*, para.317; *Nyiramasuhuko et al., AJ*, para.3327.

<sup>910</sup> "Instigation" is a broad term that encompasses "ordering", "soliciting" and "inducing": *Gbagbo CD*, para.243; *Blé Goudé CD*, para.159; *Al Mahdi CD*, para.25; *Onqwen CD*, para.42; *Bemba, et al TJ*, para.74; *Bemba, et al AJ*, para.847.

<sup>911</sup> Article 30(2)(a).

<sup>912</sup> The term "cause" in article 30(2)(b) needs to be interpreted in light of the lower objective threshold of contribution to the crime under article 25(3)(b) and cannot mean that to require proof that the perpetrator intended his or her conduct to be a *conditio sine qua non* for the commission of the crime.

<sup>913</sup> *Bemba, et al TJ*, para.82; *Mudacumura Arrest Warrant Decision*, para.63; *Ntaganda CD*, para.153.

<sup>914</sup> Because the instigator does not exert control over the crime and because under article 25(3)(b) the Prosecution must merely show a causal link between the accused's conduct and the commission of the crimes (see above), the terms "as a consequence of" cannot be interpreted strictly.

course of events, the type of crimes would be committed.<sup>915</sup> In addition, the Prosecution must show that the accused was aware that he or she was in a position of authority *vis-à-vis* the perpetrator of the crime.<sup>916</sup>

### C. YEKATOM'S CONTRIBUTIONS

355. As described below, **YEKATOM**'s contributions to the Charged Crimes were essential, taken separately or cumulatively. Without them, the Charged Crimes would not have occurred, or would not have occurred in the same manner. **YEKATOM** essentially contributed to the Charged Crimes through the following conduct: (i) structuring, training, and equipping his elements; (ii) preparing the Anti-Balaka attacks and advances, and participating and leading his Group in their execution; (iii) issuing orders to Anti-Balaka members, including patently illegal instructions; and (iv) conscripting and/or enlisting children under the age of 15 into his Group.<sup>917</sup> Taking into account the totality of the evidence, **YEKATOM**'s contributions promoted and encouraged the group's organisational Criminal Policy, its Common Purpose, and improved its operational capacity to commit the Charged Crimes.

#### a) *YEKATOM structured, trained, and equipped Anti-Balaka elements*

356. On fleeing to ZONGO after the 24 March 2013 *Coup*, **YEKATOM** and his deputies OUANDJIO and Habib BEINA, regularly met with MOKOM.<sup>918</sup> According to **YEKATOM**, the Anti-Balaka movement began there.<sup>919</sup> From ZONGO, **YEKATOM** moved to KALANGOI where, by June 2013, he had gathered over 1,000 elements.<sup>920</sup> By 5 December 2013 or shortly thereafter, **YEKATOM** controlled around 3,000 elements.<sup>921</sup>

357. **YEKATOM**'s Group was organised in a military-like hierarchy.<sup>922</sup> His command included FACA members OUANDJIO, Habib BEINA, *caporal-chef* Rodrigue

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<sup>915</sup> Article 30(3).

<sup>916</sup> For "ordering" the accused's position of authority is a relevant circumstance within the meaning of article 30(3).

<sup>917</sup> Confirmation Decision, p.107.

<sup>918</sup> See above, paras.86 and 90.

<sup>919</sup> [CAR-OTP-2065-0716](#), from [00:01:02] to [00:01:28] and its transcript and translation [CAR-OTP-2107-6924](#), at 6925, l.13-29, [CAR-OTP-2107-7058](#), at 7060, l.13-29.

<sup>920</sup> See above, para.88.

<sup>921</sup> See above, para.89.

<sup>922</sup> **P-1339**: [CAR-OTP-2041-0741-R01](#), at 0750, paras.60, 63; **P-1786**: [CAR-OTP-2058-0200-R01](#), at 0205, paras.26-27; see also [CAR-OTP-2039-0063](#), at 0063-0066; [CAR-OTP-2039-0050](#), at 0050-0062; **P-2475**:

MOMOKAMA (“MOMOKAMA”), *caporal* Aristide BEINA, *caporal* Devy LAKO-TOEMA (“LAKO-TOEMA”), and others.<sup>923</sup> **YEKATOM** also implemented an administrative structure, including assigning a treasurer,<sup>924</sup> a secretary to maintain records, member registrations, orders, and weapons distribution.<sup>925</sup>

358. **YEKATOM** organised and trained his elements in KALANGOI for over three months, including on weapons use, such as machetes, knives, guns, and AK47 Kalashnikov-type rifles (“Kalashnikov”). OUANDIJO and Habib BEINA also trained the Group’s elements.<sup>926</sup> **YEKATOM** told his elements that the purpose of the training was “so [they] could kill Muslims *and* Selekas.”<sup>927</sup> Given that many elements lacked combat experience or discipline, their training enabled them to carry out the crimes more effectively.<sup>928</sup>

359. **YEKATOM** provided his elements with the means to commit the Charged Crimes. **YEKATOM** purchased weapons and ammunition and distributed them amongst his elements.<sup>929</sup> He provided them with money to buy weapons.<sup>930</sup> Other weapons were acquired through FACA members who joined the group, taken from the Seleka, or pillaged from the *gendarmerie*.<sup>931</sup> Accordingly, YEKATOM’s Group had a variety of weapons at

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[CAR-OTP-2110-0556-R03](#), at 0568, 0573, paras.82, 115; [CAR-OTP-2094-3642](#); [CAR-OTP-2094-3627](#); [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, l.4-15; [CAR-OTP-2065-3180](#) from [00:00:31] to [00:01:45], and its transcript [CAR-OTP-2122-7503](#), at 7504, l.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, l.3-8.

<sup>923</sup> **P-1339**: [CAR-OTP-2041-0741-R01](#), at 0746, para.36; **P-0954**: [CAR-OTP-2048-0171-R02](#), at 0185, para.80; [CAR-OTP-2039-0063](#), at 0063-0064; **P-1819**: [CAR-OTP-2065-0003-R01](#), at 0011-0012, paras.39, 48; **P-2232**: [CAR-OTP-2100-2569-R01](#), at 2581, para.65; **P-1786**: [CAR-OTP-2058-0200-R01](#), 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, l.5-17.

<sup>924</sup> [REDACTED].

<sup>925</sup> [REDACTED].

<sup>926</sup> **P-1339**: [CAR-OTP-2041-0741-R01](#), at 0745-0746, paras.32-37; *see also* **P-0487**: [CAR-OTP-2058-0165-R01](#) at 0171, para.36; **P-2269**: [CAR-OTP-2111-0336-R01](#) at 0344, para.56.

<sup>927</sup> **P-1339**: [CAR-OTP-2041-0741-R01](#), at 0746, para.39. [Emphasis added].

<sup>928</sup> *See above*, paras.87, 88, 144, 145, 360; **P-0487**: [CAR-OTP-2076-0272-R01](#), at 0282, l.345-361, [CAR-OTP-2076-0130-R01](#), at 0138, l.279-292; **P-1647**: [CAR-OTP-2050-0654-R02](#), at 0658-0659, para.33.

<sup>929</sup> **P-1339**: [CAR-OTP-2041-0741-R01](#), at 0747, para.43; **P-1647**: [CAR-OTP-2050-0654-R02](#), at 0665, paras.81, 83; [CAR-OTP-2039-0072](#), at 0073; **P-1839**: [CAR-OTP-2122-6762-R01](#) at 6785, l.829-834; **P-2233**: [CAR-OTP-2118-8869-R01](#), at 8876-8881, l.235-417; **P-2419**: [CAR-OTP-2112-0036-R01](#), at 0052, para.93.

<sup>930</sup> [REDACTED].

<sup>931</sup> **P-0954**: [CAR-OTP-2048-0171-R02](#), at 0184, para.78; **P-1339**: [CAR-OTP-2041-0741-R01](#), at 0746-0747, paras.37-39, 41-43; [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, l.27-34, and [CAR-OTP-2107-7050](#), at 7052, l.27-34; **P-1786**: [CAR-OTP-2058-0200-R01](#), at 0204, para.24.

its disposal, including machine guns, rocket-propelled grenades, hand grenades, Kalashnikovs and hunting rifles, and machetes.<sup>932</sup>

360. With these resources, training, and weapons, YEKATOM's Group participated in the 5 December 2013 BANGUI Attack, committing the crimes charged under Counts 1-6, and 8.<sup>933</sup>

361. After the 5 December 2013 Attack, **YEKATOM** established a base at the YAMWARA School in BOEING ("YAMWARA School Base"),<sup>934</sup> where he organised further training for his elements,<sup>935</sup> and where he and his Group committed the crimes

<sup>932</sup> **P-1339:** [CAR-OTP-2041-0741-R01](#), at 0748, 0751, paras.46, 68; **P-1819:** [CAR-OTP-2065-0003-R01](#), at 0009-0010, 0018, paras.33-35, 79; [CAR-OTP-2055-2610](#), from [00:01:17] to [00:03:04] and its transcript and translation, [CAR-OTP-2107-6906](#), at 6909-6910, l.39-99, and [CAR-OTP-2122-2271](#), at 2275-2276, l.39-99; [CAR-OTP-2065-1957](#), from [00:00:11] to [00:00:55] and its transcript and translation, [CAR-OTP-2127-6212](#) and [CAR-OTP-2127-6319](#), at 6321, l.5-33; [CAR-OTP-2065-0730](#) from [00:00:00] to [00:01:50] [transcript and translation pending with LSU]; [CAR-OTP-2065-2544](#), from [00:00:00] to [00:02:03] and its transcript and translation, [CAR-OTP-2127-3741](#) and [CAR-OTP-2127-3649](#), at 3651-3652, l.4-46; *see also* [CAR-OTP-2065-2548](#) from [00:00:17] to [00:03:04] and its transcript and translation, [CAR-OTP-2127-3743](#), and [CAR-OTP-2127-3653](#), at 3655, l.5-99.

<sup>933</sup> *See below*, paras.392-409.

<sup>934</sup> **P-1990:** [CAR-OTP-2124-0247-R01](#), at 0253, paras.25-26; [CAR-OTP-2065-4880](#), from [00:00:00] to [00:05:15] and its transcript [CAR-OTP-2107-1551](#), at 1552-1553, 1555, l.1-66, 107-111; **P-1839:** [CAR-OTP-2072-0789-R01](#), at 0814, l.880-913; **P-1647:** [CAR-OTP-2050-0654-R02](#), at 0658, para.28; **P-0954:** [CAR-OTP-2048-0171-R02](#), at 0176-0177, para.36; **P-1339:** [CAR-OTP-2041-0741-R01](#), at 0753, para.85; **P-1819:** [CAR-OTP-2065-0003-R01](#), at 0012, para.45; **P-2475:** [CAR-OTP-2110-0556-R03](#), at 0572-0573, paras.111-117; **P-1786:** [CAR-OTP-2058-0200-R01](#), at 0203, para.19; **P-1558:** [CAR-OTP-2105-0195-R01](#), at 0200, para.25; **P-2587:** [CAR-OTP-2120-0211-R02](#), at 0219, para.43; **P-2698:** [CAR-OTP-2126-0254-R01](#), at 0259-0260, para.17; [CAR-OTP-2065-4617](#) from [00:00:00] to [00:04:02] [transcript and translation pending with LSU].

<sup>935</sup> **P-1819:** [CAR-OTP-2065-0003-R01](#), at 0029, para.146; [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, l.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, l. 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, l.13-25, and [CAR-OTP-2107-7063](#), at 7065, l.13-24; [CAR-OTP-2065-0999](#), from [00:00:52] to [00:01:23] and its transcript [CAR-OTP-2107-1543](#), at 1544, l.1-16; [CAR-OTP-2065-3917](#), from [00:00:00] to [00:00:21] and its transcript [CAR-OTP-2122-7506](#), at 7507, l. 1-4; [CAR-OTP-2065-3921](#), from [00:00:00] to [00:02:06] [transcript and translation pending with LSU]; [CAR-OTP-2065-3953](#), from [00:00:00] to [00:00:41] and its transcript [CAR-OTP-2122-9441](#), at 9442, l. 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, l.1-13, and [CAR-OTP-2107-3086](#), at 3088, l.1-17; [CAR-OTP-2065-3973](#), from [00:00:00] to [00:00:26] [transcript and translation pending with LSU]; **P-1647:** [CAR-OTP-2050-0654-R02](#), at 0658-0659, paras.31, 33; **P-1839:** [CAR-OTP-2072-0644-R01](#), at 0659-0661, 0669-0671, l.543-549, 562-565, 594-599, 903-914, 936-953; [CAR-OTP-2005-0129](#), from [00:20:50] to [00:24:40] [transcript and translation pending with LSU]; **P-1815:** [CAR-OTP-2058-0581-R01](#), at 0595, para.79; **P-2233:** [CAR-OTP-2118-5790-R01](#), at 5805-5808, l.476-519, 561-597; [CAR-OTP-2122-2393-R01](#), at 2443-2445, l.1629-1687; [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-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-2127-3755](#), and [CAR-OTP-2127-3658](#), at 3660-3661, l.4-51.

charged under Counts 11-16.<sup>936</sup> **YEKATOM** later set up several other bases, including at PK9, BOEING, and SEKIA.<sup>937</sup> He provided his elements with money, including from illegal checkpoints along the PK9-MBAIKI axis, to pay for their fuel, food, or medical treatment.<sup>938</sup> In around October 2014, **YEKATOM** set up the “*Etas-Unis*” training camp around 25 km from BIMON.<sup>939</sup>

362. **YEKATOM** permitted outsiders to provide limited training to some of his elements on international humanitarian law,<sup>940</sup> but failed to implement effective training on the core principle of distinguishing between civilians and combatants. **YEKATOM** also failed to create or enforce a code of conduct reflecting the basic rules of international humanitarian law, and further failed to establish an effective military police to arrest perpetrators within his Group for crimes against Muslim civilians. These failures, combined with **YEKATOM**’s failure to discipline and punish elements that committed crimes against Muslim civilians and allowing criminal elements to remain in his Group, perpetuated a culture of impunity and underscore his intent as regards his contributions. Similarly, his failures as set out at paragraph 233 (i – xv) of the DCC<sup>941</sup> and incorporated by reference herein also underscore his *intent* as regards his contributions.

363. **YEKATOM** promoted his elements, including OUANDJIO, Habib BEINA, MOMOKAMA, and Aristide BEINA to positions of authority within his Group, and through which they committed crimes.<sup>942</sup> **YEKATOM** kept them in key positions despite their publicly expressed intention to commit violence against Muslim civilians. For example, at the YAMWARA School Base, deputy Habib BEINA, MOMOKAMA, and

<sup>936</sup> See below, paras.444-455.

<sup>937</sup> **P-0446**: [CAR-OTP-2059-1546-R02](#), at 1557, l.381; **P-1339**: [CAR-OTP-2041-0741-R01](#), at 0753, 0756, paras.86, 107; **P-1858**: [CAR-OTP-2063-0050-R01](#), at 0056, 0063, paras.39, 79, 83; [CAR-OTP-2041-0779-R02](#); [CAR-OTP-2055-2610](#), from [00:01:17] to [00:03:04] and its transcript and translation [CAR-OTP-2107-6906](#), at 6909-6910, l.39-99, and [CAR-OTP-2122-2271](#), at 2275-2276, l.39-99; **P-0954**: [CAR-OTP-2048-0171-R02](#), at 0176-0177, 0186, paras.36, 89; [CAR-OTP-2012-0720-R01](#), at 0721; **P-1839**: [CAR-OTP-2122-6977-R01](#) at 6999-6700, l.769-798.

<sup>938</sup> See e.g. **P-1647**: [CAR-OTP-2050-0654-R02](#), at 0665, para.79; **P-1839**: [CAR-OTP-2072-0521-R01](#), at 0528, l.268-274, [CAR-OTP-2072-0914-R01](#), at 0927-0929, l.459-520, [CAR-OTP-2122-6680-R01](#) at 6702, l.673-670.

<sup>939</sup> [REDACTED], [CAR-OTP-2003-1654](#), at 1819.

<sup>940</sup> [REDACTED]; **P-1647**: [CAR-OTP-2050-0654-R02](#), at 0658-0659, para.33.

<sup>941</sup> See DCC, para. 233.

<sup>942</sup> **P-2232**: [CAR-OTP-2100-2569-R01](#), at 2581, para.65; **P-1647**: [CAR-OTP-2050-0654-R02](#), at 0662, para.51; **P-1839**: [CAR-OTP-2072-0879-R01](#), at 0892-0898, l.471-676; **P-1339**: [CAR-OTP-2041-0741-R01](#), at 0746, para.36; **P-0954**: [CAR-OTP-2048-0171-R02](#), at 0185, para.80; [CAR-OTP-2039-0063](#), at 0063-0064. Habib BEINA also became an Anti-Balaka ComZone: [CAR-OTP-2030-0232](#), at 0235; **P-1786**: [CAR-OTP-2058-0200-R01](#), at 0210, paras.56-58.

ranking members of YEKATOM's Group openly voiced their intention to 'slaughter' the Muslim population, pregnant women and babies included.<sup>943</sup> Yet, **YEKATOM** rewarded these members of his Group, by retaining them and those who had previously assisted in the commission of crimes against Muslim civilians.<sup>944</sup>

364. **YEKATOM**'s actions helped solidify his Group's place within the structure of the *de facto* Coordination and later National Coordination.<sup>945</sup> As a part of the Anti-Balaka, **YEKATOM** and his Group subscribed to, promoted, and implemented the Anti-Balaka's *Common Purpose* and *Criminal Policy*— violently targeting the Muslim civilian population in areas of his responsibility, based on their religious, national or ethnic affiliation, and their perceived collective responsibility for, complicity with, and/or support of, the Seleka, as their crimes described below show.<sup>946</sup>

<sup>943</sup> **P-1819**: [CAR-OTP-2065-0003-R01](#), at 0011-0031, paras.39-45, 49-164; *see, e.g.* [CAR-OTP-2065-0436](#), from [00:00:00] to [00:00:57] and its transcript [CAR-OTP-2107-1539](#), at 1540, l.1-18; [CAR-OTP-2065-3188](#), from [00:00:00] to [00:01:02] and its transcript [CAR-OTP-2107-1547](#), at 1548, l.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, l.1-35, and [CAR-OTP-2107-3056](#), at 3058-3059, l.1-38; [CAR-OTP-2065-4930](#), from [00:00:00] to [00:01:27] and its transcript [CAR-OTP-2107-1557](#), at 1558, l.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, l.1-15, and [CAR-OTP-2107-3145](#), at 3147, l.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, l.1-28, and [CAR-OTP-2107-7066](#), at 7068, l.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, l.1-23, and [CAR-OTP-2107-3118](#), at 3120, l.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-2107-3138](#), at 3140-3142, l.1-91; [CAR-OTP-2065-0802](#), from [00:00:30] to [00:01:41] and its transcript and translation [CAR-OTP-2107-3039](#), at 0340-0341, l.16-66 and [CAR-OTP-2107-3042](#), at 3044-3045, l.17-68; [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](#); [CAR-OTP-2065-3560](#), from [00:00:00] to [00:01:13] and its transcript and translation [CAR-OTP-2107-3060](#) at 3061-3062, l.1-23, and [CAR-OTP-2107-3063](#), at 3065, l.1-26; [CAR-OTP-2065-5140](#), from [00:00:00] to [00:00:25] and its transcript [CAR-OTP-2107-3364](#), at 3365, l.1-12.

<sup>944</sup> On the identification of MOMOKAMA: **P-1819**: [CAR-OTP-2065-0003-R01](#), at 0011, 0027, paras.39, 135, where he is described as wearing a beige coat and a hat. *See also* **P-1339**: [CAR-OTP-2041-0741-R01](#), at 0757, para.111; **P-1839**: [CAR-OTP-2122-7087-R01](#), at 7089, l.40-57 (identifying MOMOKAMA on video [CAR-OTP-2065-0730](#)), at 7099, l.401-406 identifying MOMOKAMA on video [CAR-OTP-2065-3208](#)).

On the identification of Habib BEINA: **P-1839**: [CAR-OTP-2122-7087-R01](#), at 7091, l.105-116 (identifying Habib BEINA on video [CAR-OTP-2065-4849](#)), at 7096, l.289-304 (identifying Habib BEINA on video [CAR-OTP-2065-4934](#)).

On the identification of OUANDJIO: **P-1704**: [CAR-OTP-2054-1136-R03](#), at 1147, paras.62, 68; **P-1339**: [CAR-OTP-2041-0741-R01](#), at 0757, para.111; **P-1839**: [CAR-OTP-2122-7087-R01](#), at 7090, l.97-103 (identifying OUANDJIO aka COEUR DE LION on video [CAR-OTP-2065-4849](#)).

<sup>945</sup> As confirmed by YEKATOM on 3 July 2014: [CAR-OTP-2032-0074](#). *See also* **P-0487**: [CAR-OTP-2076-0146-R01](#), at 0159, 0162, l.479-481, 585-588; **P-1339**: [CAR-OTP-2041-0741-R01](#), at 0747, 0750, 0755, paras.42, 65, 97-98, 100.

<sup>946</sup> *See e.g.* para. 450; **P-2233**: [CAR-OTP-2118-5848-R01](#), at 5849-5850, l.20-26, 55-68; [CAR-OTP-2065-3696](#), and its transcript [CAR-OTP-2107-1549](#), at 1550, l.5-17.

- b) *YEKATOM prepared Anti-Balaka attacks and advances, and participated and led his Group in the execution of these attacks and advances*

365. **YEKATOM** ordered and led operations to attack Muslim civilians, including the 5 December 2013 BANGUI Attack<sup>947</sup>

366. **YEKATOM** liaised with MOKOM in preparation for the 5 December 2013 BANGUI Attack,<sup>948</sup> in which YEKATOM's Group played an integral role.<sup>949</sup>

367. From December 2013, **YEKATOM** coordinated, commanded, and controlled his Group, deploying them in the southwest of BANGUI (including CATTIN), and BOEING.<sup>950</sup> He also later deployed elements to the LOBAYE Prefecture along the PK9 – MBAIKI and PISSA - MONGOUMBA axes.<sup>951</sup> In doing so while fully aware of their anti-Muslim animus,<sup>952</sup> **YEKATOM** provided his elements with the opportunity to commit

<sup>947</sup> See e.g. **P-2475**: [CAR-OTP-2110-0556-R03](#), at 0568-0569, 0570, 0572 paras.86-89, 96-97, 102, 110; **P-1339**: [CAR-OTP-2041-0741-R01](#), at 0751-0752, para.71; see below, paras.394-398.

<sup>948</sup> See above, para.90.

<sup>949</sup> See below, paras.393-398.

<sup>950</sup> [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 1.4-49; **P-2698**: [CAR-OTP-2126-0254-R01](#), at 0260, para.28; **P-1074**: [CAR-OTP-2094-0228-R02](#), at 0240, paras.69-70; [CAR-OTP-2101-0340](#), at 0340; **P-1921**: [CAR-OTP-2081-0072-R02](#), at 0084-0085, para.66; **P-1528**: [CAR-OTP-2048-0757-R03](#), at 0766, para.51; **P-0487**: [CAR-OTP-2076-0130-R01](#), at 0138, 1.272-273; [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, 1.4-52.

<sup>951</sup> **P-1839**: [CAR-OTP-2072-1101-R02](#), at 1103-1108, 1.48-239 and annex [CAR-OTP-2066-1467](#), at 1467, [CAR-OTP-2122-6977-R01](#) at 6999-6700, 1.769-798; **P-1193**: [CAR-OTP-2045-0048-R02](#), at 0053, 0058, paras.33, 63; **P-1858**: [CAR-OTP-2063-0050-R01](#), at 0060, 0063-0064, 0068, paras.60, 83-85, 112; **P-2328**: [CAR-OTP-2099-0165-R01](#), at 0177, 0183, paras.62, 95, 97; **P-2012**: [CAR-OTP-2091-0127-R01](#), at 0142, para.69; **P-0954**: [CAR-OTP-2048-0171-R02](#), at 0181-0182, 0184-0185, paras.61, 79; **P-1074**: [CAR-OTP-2094-0228-R02](#), at 0240, paras.69-70; [CAR-OTP-2101-0340](#), at 0340; **P-0287**: [CAR-OTP-2115-0239-R01](#), at 0257, para.82; **P-1813**: [CAR-OTP-2069-0035-R01](#), at 0041, para.40; **P-1921**: [CAR-OTP-2081-0072-R02](#), at 0084-0085, para.66; **P-1521**: [CAR-OTP-2046-0603-R01](#), at 0618, para.91; **P-1647**: [CAR-OTP-2050-0654-R02](#), at 0660, para.39; **P-1528**: [CAR-OTP-2048-0757-R03](#), at 0766, para.51; **P-1503**: [CAR-OTP-2046-0571-R03](#), at 0579, paras.57-58; **P-0487**: [CAR-OTP-2076-0130-R01](#), at 0138, 1.272-273, [CAR-OTP-2076-0253-R01](#), at 0265, 0268, 1.430-431, 538-541, [CAR-OTP-2076-0212-R01](#), at 0225, 1.470-473; [CAR-OTP-2014-0729-R01](#), at 0740; [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, 1.7-13, and [CAR-OTP-2107-7128](#), at 7130, 1.7-13; [CAR-OTP-2045-0525](#), at 0525; [CAR-OTP-2053-0567](#), at 0567; **P-1974**: [CAR-OTP-2068-0222-R02](#), at 0225-0226, paras.25-26.

<sup>952</sup> See above, para.363; see also [CAR-OTP-2050-0648](#), from [00:01:56] to [00:02:29] [transcript and translation pending with LSU]; **P-2419**: [CAR-OTP-2112-0036-R01](#), at 0053, para.99.

violent crimes there.<sup>953</sup> During the relevant time, he and key members of his Group were present along the PK9 – MBAIKI axis, including KAPOU and PISSA.<sup>954</sup>

368. **YEKATOM**'s advances also allowed the Anti-Balaka to extend its control over territory, the movement of goods and people, and for his personal gain. **YEKATOM** set up roadblocks and checkpoints at strategic locations throughout LOBAYE Prefecture and near BANGUI to control the flow of individuals and exact illegal "tolls" from passing vehicles, including cash and supplies,<sup>955</sup> part of which **YEKATOM** personally collected.<sup>956</sup> **YEKATOM** was also regularly present in areas under his control, including when his elements were committing crimes.<sup>957</sup>

369. **YEKATOM** set an example for his elements through his own commission of indiscriminate acts of brutality, which promoted similar violent conduct throughout his Group. He was notorious for killing both Muslims and his own men when they opposed

<sup>953</sup> See below, paras.394, 396, 398-404; see also **P-1786**: [CAR-OTP-2058-0200-R01](#), at 0204, 0207-0208, paras.23, 42; [CAR-OTP-2039-0020](#) at 0020; [CAR-OTP-0080-0840](#), at 0842; [CAR-OTP-2001-3268](#) at 3286.

<sup>954</sup> [CAR-OTP-2094-7618](#) [00:00:00] to [00:27:32], and its transcript [CAR-OTP-2118-4284](#) and translation [CAR-OTP-2118-4260](#) (French) and [CAR-OTP-2118-4272](#) (English); **P-1839**: [CAR-OTP-2122-6942-R01](#) at 6943-6951, l.015-290, [CAR-OTP-2122-6954-R01](#) at 6960-6962, 6965-6976, l.202-288, 364-751, [CAR-OTP-2122-6977-R01](#) at 6968-6989, l.024-425, [CAR-OTP-2122-6977-R01](#) at 6999, l.763-774; **P-1558** [CAR-OTP-2105-0195-R01](#), at 0200, 204 paras.26, 50.

<sup>955</sup> See below, paras.470, 477, 484; see also **P-1990**: [CAR-OTP-2124-0247-R01](#), at 0254-0255, paras.31-35; [CAR-OTP-2001-6251](#) at 6294, 6329; [CAR-OTP-2001-5642](#) at 5643, 5645; **P-2328**: [CAR-OTP-2099-0165-R01](#), at 0187, para.112; **P-1813**: [CAR-OTP-2069-0035-R01](#), at 0046, para.74; [CAR-OTP-2065-1889](#) from [00:01:47] to [00:02:02] [transcript and translation request pending with LSU]; [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, l.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, l.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, l. 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, l. 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, l. 1-21; [CAR-OTP-2065-4021](#) from [00:00:00] to [00:01:45] and its transcript and translation [CAR-OTP-2127-3771](#) and [CAR-OTP-2127-3694](#), at 3696-3697, l. 3-42; [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, l. 3-3; [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, l.6-80.

<sup>956</sup> **P-0974**: [CAR-OTP-2058-0165-R01](#), at 0179, para.95; **P-1838**: [CAR-OTP-2100-0252-R02](#), at 0272, para.109; **P-2475**: [CAR-OTP-2110-0556-R03](#), at 0581, para.172; [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, l.837-850.

<sup>957</sup> See below, paras.394, 396, 401, 408, 446-449, 478; see also e.g. **P-1528**: [CAR-OTP-2048-0757-R03](#), at 0766, paras.50-51; **P-1839**: [CAR-OTP-2072-1068-R01](#), at 1071-1072, l.75-142; **P-1503**: [CAR-OTP-2046-0571-R03](#), at 0579; [CAR-OTP-2001-0835](#), at 0876; [CAR-OTP-2053-0576](#), at 0576-0577; **P-1786**: [CAR-OTP-2058-0200-R01](#), at 0203, 0207, paras.20, 41.

him.<sup>958</sup> For example, he once slit an element's throat for having a cell-phone against his instructions.<sup>959</sup> He killed three of his *aides de camp*,<sup>960</sup> and tortured [REDACTED] in front of his elements at [REDACTED].<sup>961</sup>

370. In addition to committing these and other crimes in his subordinates' presence – **YEKATOM** not only “didn't care” about his subordinates' crimes,<sup>962</sup> but readily redeployed members of his Group to areas where they continued to commit them, imperilling civilians and others who were their victims.

371. Despite his awareness, **YEKATOM** chose to take no action regarding his subordinates' crimes.<sup>963</sup> He requested and received updates regarding their situation on the ground,<sup>964</sup> and was present when his men committed certain crimes.<sup>965</sup> As a FACA officer, **YEKATOM** was under a duty under international law, *inter alia*, to take steps to prevent the Anti-Balaka from harming Muslim civilians, and particularly prisoners within his custody or control or that of his elements.<sup>966</sup> He had a further and separate duty under

<sup>958</sup> **P-0487**: [CAR-OTP-2076-0146-R01](#), at 0153-0154, 0156, 0160, 1.256-279, 348-363, 487-502, [CAR-OTP-2076-0272-R01](#), at 0282, 1.345-361; **P-0876**: [CAR-OTP-2046-0267-R01](#), at 0274, 1.244-257; [CAR-OTP-2046-0324-R01](#), at 0342, 1.634-660; **P-0954**: [CAR-OTP-2048-0171-R02](#), at 0181, 0185-0186, paras.56, 83-88; **P-0974**: [CAR-OTP-2058-0165-R01](#), at 0179, para.94; **P-1647**: [CAR-OTP-2050-0654-R02](#), at 0662, para.53; **P-1839**: [CAR-OTP-2072-0521-R01](#), at 0529, 1.308-327, [CAR-OTP-2072-0851-R02](#), at 0859, 1.262-291, [CAR-OTP-2072-0946-R03](#), at 0955-0957, 1.320-378, [CAR-OTP-2072-1101-R02](#), at 1119-1120, 1.641-655; **P-1858**: [CAR-OTP-2063-0050-R01](#), at 0065, para.94; [CAR-OTP-2001-2707](#), at 2728; **P-1786**: [CAR-OTP-2058-0200-R01](#), at 0210, para.55.

<sup>959</sup> [REDACTED]; on the prohibition to carry a phone, see: **P-2475**: [CAR-OTP-2110-0556-R03](#), at 0570, para.96.

<sup>960</sup> **P-0974**: [CAR-OTP-2058-0165-R01](#), at 0179, para.94; **P-0954**: [CAR-OTP-2048-0171-R02](#), at 0186, para.87; **P-1839**: [CAR-OTP-2122-6707-R01](#) at 6716-6717, 1.319-369, [CAR-OTP-2122-6954-R01](#) at 6961-6962, 1.237-250; **P-1339**: [CAR-OTP-2041-0741-R01](#), at 0749, para.55; **P-1647**: [CAR-OTP-2050-0654-R02](#), at 0662, paras.53-56; **P-0487**: [CAR-OTP-2076-0253-R01](#), 0257, 1.121-141.

<sup>961</sup> [REDACTED].

<sup>962</sup> [REDACTED].

<sup>963</sup> See e.g. **P-1839**: [CAR-OTP-2072-0946-R03](#), at 0963-0964, 1.623-645, [CAR-OTP-2072-1068-R01](#), at 1073-1075, 1.160-214; **P-0888**: [CAR-OTP-2031-0217-R01](#), at 0222, para.36; [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, l. 23-33; [CAR-OTP-2065-4492](#) from [00:00:00] to [00:00:51] and its transcript and translation [CAR-OTP-2107-3099](#) and [CAR-OTP-2118-5681](#), at 5683-5684, l. 1-54.

<sup>964</sup> **P-1647**: [CAR-OTP-2050-0654-R02](#), at 0662, para.51; **P-1839**: [CAR-OTP-2072-0822-R01](#), at 0838, 1.571-583.

<sup>965</sup> See below, paras.396, 408, 447, 451-455; see also [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, l. 1-64.

<sup>966</sup> See e.g., *Prosecutor v. Mrksic and Sljivancanin*, IT-95-13/1-A Appeal Judgement, paras.72-73 (recognising that international law imposes a duty on an agent of a detaining power (i.e., an official of the State, such as military personnel) to protect prisoners).

CAR criminal law<sup>967</sup> to render assistance to and/or protect Muslim civilians imperilled by the Anti-Balaka, including his own Group.

372. Instead of fulfilling these duties, **YEKATOM** encouraged his Group's commission of crimes, and created a climate of impunity within his ranks in which they were certain to occur.<sup>968</sup>

c) *YEKATOM issued orders to Anti-Balaka members, including patently illegal instructions.*

373. **YEKATOM** systematically presented himself as the leader of his Group. He was recognised as such by his subordinates, the Anti-Balaka Coordination, the CAR authorities, and the international community.<sup>969</sup>

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<sup>967</sup> Article 84, CAR Code pénal (« *Sera puni d'un emprisonnement de trois mois à cinq ans et d'une amende de 100.002 à 500.000 francs, quiconque s'abstient volontairement de porter à une personne en péril l'assistance que, sans risque pour lui ni pour les tiers, il pouvait lui prêter soit par son action personnelle, soit en provoquant un secours* »).

<sup>968</sup> See above, para.362.

<sup>969</sup> [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, l.80-95, and [CAR-OTP-2122-2271](#), at 2276, l.80-95; **P-1815**: [CAR-OTP-2058-0581-R01](#), at 0595, para.81; [CAR-OTP-2030-0232](#), at 0233; [CAR-OTP-2033-8065](#), at 8074; **P-0808**: [CAR-OTP-2093-0010-R01](#), at 0028, paras.101-102, [CAR-OTP-2025-0324-R03](#), at 0332-0333, para.56; **P-0801**: [CAR-OTP-2074-2234-R01](#), at 2255, l.726-737; **P-0954**: [CAR-OTP-2048-0171-R02](#), at 0181-0182, para.61; [CAR-OTP-2039-0020](#), at 0020; **P-1193**: [CAR-OTP-2045-0048-R02](#), at 0053, para.33; [CAR-OTP-2005-0129](#), from [00:22:01] to [00:22:45] [transcript and translation request pending with LSU]; **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 e.g. [CAR-OTP-0080-0840](#), at 0842; [CAR-OTP-0080-0821](#), at 0823; [CAR-OTP-2051-0743](#), at 0745; [CAR-OTP-2051-0479](#), at 0504; [CAR-OTP-2001-5739](#), at 5785; [CAR-OTP-2030-0521](#), at 0525, 0530, 0534; [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, l. 760-850; [CAR-OTP-2065-3700](#), from [00:00:00] to [00:01:49] [transcript and translation request pending with LSU].

374. **YEKATOM** issued orders to his subordinates – both administrative and criminal<sup>970</sup> – including to commit the Charged Crimes.<sup>971</sup> He ordered the torture and killing of Muslims, including women and children,<sup>972</sup> and even directed violence against those within his Group he suspected of disloyalty.<sup>973</sup> He ordered such brutality as cutting throats, cutting ears off, execution, or burying people alive.<sup>974</sup> **YEKATOM** also ordered his

<sup>970</sup> **P-2582**: [CAR-OTP-2117-0605-R02](#), at 0613, 0616, paras.48, 67; **P-1839**: [CAR-OTP-2122-6762-R01](#) at 6785, 1.829-834, [CAR-OTP-2122-7067-R01](#) at 7078-7083, 1.361-560; [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, 1.4-29; [CAR-OTP-2065-1889](#) [transcript and translation request pending with LSU]; [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, 1. 35-109; [CAR-OTP-2065-2077](#), from [00:00:00] to [00:01:16] and from [00:01:16] to [00:01:52] and its transcript and translation [CAR-OTP-2127-6532](#) and [CAR-OTP-2127-6574](#), at 6576-6577, 1. 25-42 and at 6577, 1. 47-60; [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, 1. 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, 1. 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, 1. 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, 1. 1-86; [CAR-OTP-2065-0730](#) from [00:00:00] to [00:01:50] [transcript and translation request pending with LSU]; [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, 1. 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, 1. 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, 1. 1-90; [CAR-OTP-2065-4504](#) from [00:00:00] to [00:01:56] [transcript and translation request pending LSU]; [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, 1. 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, 1. 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, 1. 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, 1. 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, 1. 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, 1. 3-24.

<sup>971</sup> See below, paras.403, 407, 409, 454, 477, 490.

<sup>972</sup> See also **P-0954**: [CAR-OTP-2048-0171-R02](#), at 0185-0186, paras.81-88; **P-1339**: [CAR-OTP-2041-0741-R01](#), at 0746-0749, 0751, 0754, 0759, paras.39-52, 54, 57, 68, 94, 118; **P-2475**: [CAR-OTP-2110-0556-R03](#), at 0570-0571, 0578, paras.98-101, 149; **P-1839**: [CAR-OTP-2072-0521-R01](#), at 0528, 1.251-269, [CAR-OTP-2072-0946-R03](#), at 0962, 1.555-591; **P-2233**: [CAR-OTP-2118-5817-R01](#), at 5826, 1.281-300, [CAR-OTP-2118-5848-R01](#), at 5854-5855, 5867, 1.188-264, 629-656, [CAR-OTP-2118-5873-R01](#), at 5874-5876, 1.19-101, [CAR-OTP-2118-5956-R01](#), at 5969-5970, 1.435-462.

<sup>973</sup> **P-1339**: [CAR-OTP-2041-0741-R01](#), at 0749, para.55; **P-0954**: [CAR-OTP-2048-0171-R02](#), at 0185-0186, paras.81-88; **P-1839**: [CAR-OTP-2122-6707-R01](#) at 6716-6717, 1.319-369, [CAR-OTP-2122-6954-R01](#) at 6961-6962, 1.237-250, [CAR-OTP-2122-6861-R01](#) at 6870, 1.273-285; **P-2233**: [CAR-OTP-2118-5817-R01](#), at 5838, 1.687-717; [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, 1.1-62; [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 1. 1-57; [CAR-OTP-2065-4946](#), from [00:00:00] to [00:03:55] [transcript and translation request pending LSU], see commentary provided by **P-1819**: [CAR-OTP-2065-0003-R01](#), at 0031, para.162.

<sup>974</sup> See below, paras.446-447, and 451; see also **P-1339**: [CAR-OTP-2041-0741-R01](#), at 0746-0749, 0751, 0754, 0759, paras.39-52, 54, 57, 68, 94, 118; **P-1839**: [CAR-OTP-2072-0521-R01](#), at 0528, 1.251-269; [CAR-OTP-2072-0946-R03](#), at 0962, 1.555-591; [CAR-OTP-2122-6590-R01](#) at 6609-6614, 1.683-868); **P-**

elements to pillage and destroy Muslim homes and mosques, “so they will go back to their country.”<sup>975</sup>

375. His administrative orders related to the organisation of his Group, authorisations to pass through checkpoints, missions, and the appointment and replacement of subordinate leaders.<sup>976</sup>

376. **YEKATOM** was in charge of his Group’s discipline.<sup>977</sup> His “orders were [to be] obeyed without question”,<sup>978</sup> and disobedience was severely punished.<sup>979</sup> **YEKATOM**’s repeated espousal of hateful and violent rhetoric against CAR’s Muslim population provides context for his illegal orders. He failed to issue clear orders to his Group to refrain from harming, attacking, or targeting civilians, particularly Muslim civilians. Instead, he told his elements that their targets were not just Seleka members, but Muslims

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**2582:** [CAR-OTP-2117-0605-R02](#), at 0611, paras.35-39; **P-1490:** [CAR-OTP-2121-2788-R01](#), at 2795-2796, paras.64-70.

<sup>975</sup> **P-1339:** [CAR-OTP-2041-0741-R01](#), at 0748-0749, paras.51-52, 54; *see also* **P-1921:** [CAR-OTP-2081-0072-R02](#), at 0085, para.71.

<sup>976</sup> *See* **P-1339:** [CAR-OTP-2041-0741-R01](#), at 0750, para.59; **P-1647:** [CAR-OTP-2050-0654-R02](#), at 0662, para.51; **P-1839:** [CAR-OTP-2072-0822-R01](#), at 0838, l.566-584; **P-2328:** [CAR-OTP-2099-0165-R01](#), at 0178, para.67; **P-1786:** [CAR-OTP-2058-0200-R01](#), at 0208-0209, para.48; *see also* [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, l.1-53; [CAR-OTP-2065-4009](#) [00:00:00] to [00:01:30] [transcript and translation request pending LSU]; [CAR-OTP-2065-4013](#) from [00:00:00] to [00:01:18] [transcript and translation request pending with LSU].

<sup>977</sup> **P-1647:** [CAR-OTP-2050-0654-R02](#), at 0660, para.40; **P-2475:** [CAR-OTP-2110-0556-R03](#), at 0565-0566, paras.59-68; [CAR-OTP-2065-2049](#), [00:00:00] to [00:01:16] and its transcript and translation, [CAR-OTP-2127-3710](#) and [CAR-OTP-2127-3602](#), at 3604, l.1-33 [CAR-OTP-2065-3220](#) from [00:00:00] to [00:04:30] and its transcript and translation, [CAR-OTP-2127-3752](#) and [CAR-OTP-2127-3668](#), at 3670-3671, l.1-71, [CAR-OTP-2065-3192](#) from [00:00:00] to [00:01:42] and its transcript and translation, [CAR-OTP-2127-4492](#) and [CAR-OTP-2127-4547](#), at 4549-4550, l. 1-24.

<sup>978</sup> **P-1858:** [CAR-OTP-2063-0050-R01](#), at 0063, para.82; *see also* **P-0801:** [CAR-OTP-2074-2234-R01](#), at 2253, l.645-648; **P-1503:** [CAR-OTP-2046-0571-R03](#), at 0579, para.59; **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, l. 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, l. 1-139.

<sup>979</sup> **P-0954:** [CAR-OTP-2048-0171-R02](#), at 0185-0186, paras.83-88; **P-1339:** [CAR-OTP-2041-0741-R01](#), at 0749, para.54; **P-1839:** [CAR-OTP-2072-0521-R01](#), at 0529, l.308-327, [CAR-OTP-2072-0851-R02](#), at 0859, l.262-291, [CAR-OTP-2072-0946-R03](#), at 0955-0957, l.320-378, [CAR-OTP-2072-1101-R02](#), at 1119-1120, l.641-655; [CAR-OTP-2122-6590-R01](#) at 6607-6609, l.603-682, [CAR-OTP-2122-6665-R01](#) at 6675-6676, l.335-390; **P-1490:** [CAR-OTP-2121-2788-R01](#), at 2797, 2798-2799 paras.80-82, 97; **P-1786:** [CAR-OTP-2058-0200-R01](#), at 0205, para.28; **P-1858:** [CAR-OTP-2063-0050-R01](#), at 0063, 0065 paras.82, 94; **P-2233:** [CAR-OTP-2118-5817-R01](#), at 5838, l.677-714; [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, l. 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 l. 1-57; [CAR-OTP-2065-4946](#), from [00:00:00] to [00:03:55] [transcript and translation request pending with LSU], *see* commentary provided by **P-1819:** [CAR-OTP-2065-0003-R01](#), at 0031, para.162.

— “foreigners” to be ‘slaughtered’, ‘exterminated’, or at the least, that ‘had to leave’, including women and children.<sup>980</sup>

- d) *YEKATOM conscripted and enlisted children under age 15, ordering their stationing at barriers and checkpoints and active participation in hostilities*

377. **YEKATOM** was fully aware that children under age 15 were enlisted in his Group, and that some were even forcibly recruited.<sup>981</sup> They were used in active hostilities, such as the 5 December 2013 BANGUI Attack,<sup>982</sup> in which **YEKATOM** ordered their participation,<sup>983</sup> as well as to man checkpoints.<sup>984</sup> He also ordered their military-style training.<sup>985</sup>

378. From at least December 2013 through August 2014, children under the age of 15 in **YEKATOM**’s Group were stationed at the YAMWARA School Base<sup>986</sup> and other bases

<sup>980</sup> See **P-0646**: [CAR-OTP-2029-0399-R01](#), at 0425, para.172; **P-1339**: [CAR-OTP-2041-0741-R01](#), at 0748-0749, 0751, paras.51-57, 68; **P-1584**: [CAR-OTP-2056-0447-R01](#), at 0467, para.130; **P-1616**: [CAR-OTP-2054-1038-R01](#), at 1049, para.58; **P-1704**: [CAR-OTP-2054-1136-R03](#), at 1143, para.35; **P-1727**: [CAR-OTP-2064-0036-R01](#), at 0053, para.101; **P-1823**: [CAR-OTP-2063-0369-R01](#), at 0374, para.29; **P-1839**: [CAR-OTP-2072-0946-R03](#), at 0948, 0952-0953, 0965-0970, l.41-73, 211-254, 687-866, [CAR-OTP-2072-1039-R01](#), at 1060-1061, l.748-767; [CAR-OTP-2072-0521-R01](#), at 0528, l.292-296; [CAR-OTP-2065-0400](#), from [00:00:00] to [00:01:45] and its transcript and translation at [CAR-OTP-2107-6921](#), at 6922, l.1-37, and [CAR-OTP-2107-7054](#), at 7056, l.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, l.1-49, and [CAR-OTP-2107-3049](#), at 3051-3052, l.1-67; **P-1921**: [CAR-OTP-2081-0072-R02](#), at 0085, para.71; see also [CAR-OTP-2065-3228](#) from [00:00:08] to [00:00:26] and its transcript and translation at [CAR-OTP-2107-0010](#), at 0011, l.1-28, and [CAR-OTP-2107-0016](#), at 0018, l.1-33.

<sup>981</sup> **P-2475**: [CAR-OTP-2110-0556-R03](#), at 0561-0563, 0578, paras.34-47, 152-153; **P-2082**: [CAR-OTP-2109-0452-R01](#), at 0462-0463, paras.47-48, 53; **P-2083**: [CAR-OTP-2110-0333-R01](#), at 0339, para.37; **P-2233**: [CAR-OTP-2118-5902-R01](#), at 5906, l.128-134; [CAR-OTP-2128-1373](#).

<sup>982</sup> **P-2475**: [CAR-OTP-2110-0556-R03](#), at 0568-0569, paras.84-89; **P-2233**: [CAR-OTP-2118-5902-R01](#), at 5918-5919, 5925, l.536-591, 771-793.

<sup>983</sup> **P-2475**: [CAR-OTP-2110-0556-R03](#), at 0568, 0579, paras.84-89, 156.

<sup>984</sup> **P-2475**: [CAR-OTP-2110-0556-R03](#), at 0579, para.156.

<sup>985</sup> **P-2475**: [CAR-OTP-2110-0556-R03](#), at 0565-0566, paras.59-66; **P-2233**: [CAR-OTP-2118-5902-R01](#), at 5906, l.128-134.

<sup>986</sup> [REDACTED]; **P-2511**: [CAR-OTP-2114-0178-R01](#), at 0182-0183, paras.28, 30; **P-1716**: [CAR-OTP-2053-0062-R01](#), at 0069, para. 38; **P-1839**: [CAR-OTP-2122-6762-R01](#) at 6767-6768, 6770, l.147-197, 261-282; **P-2233**: [CAR-OTP-2122-2393-R01](#), at 2430-2433, l.1196-1234, 1288-1349; [CAR-OTP-2065-3843](#) from [00:00:00] to [00:01:17] and its transcript and translation, [CAR-OTP-2107-3077](#) and [CAR-OTP-2118-5668](#); [CAR-OTP-2087-2805](#) from [00:00:00] to [00:03:15] and its transcript [CAR-OTP-2122-7413](#); **P-2587**: [CAR-OTP-2120-0211-R02](#), at 0219, para.43.

and checkpoints under **YEKATOM**'s control.<sup>987</sup> These included at BOEING,<sup>988</sup> along the PK9 – MBAIKI axis in SEKIA<sup>989</sup> and PISSA,<sup>990</sup> and along the PISSA – MONGOUMBA axis,<sup>991</sup> including BATALIMO.<sup>992</sup>

#### **D. YEKATOM HAD THE REQUIRED INTENT AND KNOWLEGDE**

379. **YEKATOM** committed the crimes charged in Counts 1-6, 8, 11-17, 24-29 jointly with or through another by his participation in, and essential contributions to, the crimes. By December 2013, and at all relevant times herein, **YEKATOM**, members of his Group, and other FACA members, espoused and participated in a plan or agreement to violently target the Muslim civilian population in BANGUI (including CATTIN), BOEING, and areas in southwestern CAR, such as along the PK9 – MBAIKI axis, pursuant to the Common Purpose and Criminal Policy.

380. **YEKATOM** intended the crimes charged in Counts 1-6, 8, 11-17, 24-29 and/or was virtually certain that implementing this agreement would, in the ordinary course of events, result in his Group's commission of these crimes.<sup>993</sup> **YEKATOM** and his co-perpetrators knew that implementing the plan would result in the commission of crimes, including Counts 1-6, 8, 11-17, 24-29, and acted with intent to bring them about.<sup>994</sup> **YEKATOM** and his co-perpetrators' awareness and acceptance of the consequence justifies the mutual attribution of their contributions and the resultant criminal responsibility for the offence(s).<sup>995</sup> **YEKATOM** was also fully aware and intended, through his acts and omissions, that these crimes would be committed in furtherance of the Common Purpose and the Anti-Balaka's Criminal Policy.

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<sup>987</sup> **P-1974:** [CAR-OTP-2068-0222-R02](#), at 0225-0227, paras.20-31; **P-2018:** [CAR-OTP-2071-0308](#); **P-2475:** [CAR-OTP-2110-0556-R03](#), at 0568, 0569, 0573, and 0579 paras.82, 83, 86, 115, and 162; **P-2082:** [CAR-OTP-2109-0452-R01](#), at 0462, para.49.

<sup>988</sup> **P-1921:** [CAR-OTP-2081-0072-R02](#), at 0090, para.94; **P-2475:** [CAR-OTP-2110-0556-R03](#), at 0561, 0566, 0571 and 0572, paras.34, 69, and 102-110.

<sup>989</sup> **P-1813:** [CAR-OTP-2083-0279-R01](#), at 0283, paras.21-23; [REDACTED].

<sup>990</sup> **P-1813:** [CAR-OTP-2083-0279-R01](#), at 0283, paras.21-23; [REDACTED]; **P-2511:** [CAR-OTP-2114-0178-R01](#), at 0186, paras.49-50; **P-2084:** [CAR-OTP-2094-0968-R02](#), at 0985, para.87.

<sup>991</sup> **P-1974:** [CAR-OTP-2068-0222-R02](#), at 0226, para.26; [CAR-OTP-2068-0558](#), at 0559, 0562 and 0564; **P-2442:** [CAR-OTP-2105-0940-R03](#), at 0945, 0947-0948, paras.34, and 46-56; **P-2475:** [CAR-OTP-2110-0556-R03](#), at 0583, para.184.

<sup>992</sup> [CAR-OTP-2128-1373](#); [CAR-OTP-2068-0558](#), at 0559, 0562 and 0564; [REDACTED].

<sup>993</sup> [Katanga CD](#), para.533; [Bemba CD](#), para.370; [Ruto CD](#), para.333.

<sup>994</sup> [Katanga CD](#), para.533; [Bemba CD](#), para.370; [Ruto CD](#), para.333.

<sup>995</sup> [Lubanga CD](#), para.362.

381. **YEKATOM** was also aware of the essential nature of his contributions to the Charged Crimes, including through conduct set out at paragraphs 356 *et seq.* above, and of his ability, jointly with the other co-perpetrators, to control their commission. **YEKATOM** was further aware of the fundamental structural, organisational, and ideological features of his Group, which enabled him, jointly with other co-perpetrators, to control and use his Group to commit the Charged Crimes, thereby controlling the commission of these crimes.

382. **YEKATOM** intentionally ordered his Group to commit the crimes charged in Counts 1-6, 8, 11-17, 24-29, or to perform other acts or omissions through which the crimes were committed. **YEKATOM** was aware of his position of authority *vis-à-vis* the perpetrators of the crimes. **YEKATOM** was also aware that elements of his Group would, in the ordinary course of events, commit the types of crimes charged in Counts 1-6, 8, 11-17, 24-29, and that his orders contributed to their commission.

383. **YEKATOM**'s intent to commit the Charged Crimes is further shown by his participation, including his planning, ordering and personally leading the attacks against Muslim civilians in BANGUI (including CATTIN<sup>996</sup>), BOEING,<sup>997</sup> and along the PK9 - MBAIKI axis.<sup>998</sup>

384. **YEKATOM**'s intent regarding the enlistment and use of children under age 15 in hostilities in his group is demonstrated by his ordering at least some to participate in operations, including the 5 December 2013 Attack, his stationing them at the YAMWARA School Base, and his demobilisation of some 153 children in his Group – which included several under age 15 in August 2014 – and his further negotiated undertaking to refrain from *re-recruiting* them.<sup>999</sup>

385. **YEKATOM**'s persecutory intent is shown by his explicit and violent anti-Muslim language,<sup>1000</sup> and that used by his subordinates in his presence.<sup>1001</sup> Like other Anti-Balaka

<sup>996</sup> See *below*, paras.394, 396, 399-403, 408; *see also* [00:00:00] to [00:03:52] and its transcript and translation [CAR-OTP-2127-3735](#) and [CAR-OTP-2127-3639](#), at 3641-3643, l.1-88; [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, l.1-90.

<sup>997</sup> See *below*, paras.394, 396, 399, 401-402, 408, 454-455.

<sup>998</sup> See *below*, paras.462, 476-478.

<sup>999</sup> See *below*, paras.482-493; *see also* **P-1558**: [CAR-OTP-2105-0195-R01](#), at 0202, para.39.

<sup>1000</sup> See *above*, paras.170, 358, and 376.

<sup>1001</sup> See *above*, paras.171 and 363.

leaders, **YEKATOM** and his elements harboured an anti-Muslim animus. They openly expressed hostility toward Muslims and their intention to exact vengeance against them.<sup>1002</sup> Additionally, the crimes committed by YEKATOM's Group, together with **YEKATOM**, were part of a pattern<sup>1003</sup> of killings, torture, sexual offences, destruction of homes and religious buildings, and forced displacement – committed by Anti-Balaka groups throughout western CAR in furtherance of its Criminal Policy and Common Purpose, as the crimes and acts detailed below show.

386. **YEKATOM**'s knowledge of his crimes and those of his Group and other Anti-Balaka elements is further demonstrated by the documents informing him of these crimes, including the February 2014 warrant for his arrest by the domestic authorities in CAR, which resulted in the arrest of 10 members of the National Coordination in February 2014.<sup>1004</sup>

387. As the incidents described below demonstrate, regarding the charged article 7(1) crimes, **YEKATOM** knew and/or intended that the conduct was part of a widespread or systematic attack directed against a civilian population. Further, **YEKATOM** was aware of the following factual circumstances: (i) the lawful presence of Muslim civilians in the relevant locations from which they were forcibly transferred, deported, or displaced, and that their displacement was not justified by security or military necessity, or other legally permissible grounds; (ii) the gravity of the conduct underlying the severe deprivation of liberty of detained persons in his area of control, and the character thereof; (iii) that the acts amounting to 'torture' did not arise from, and were not inherent or incidental to, any lawful sanction; and (iv) the character of the acts amounting to 'inhumane acts'.

388. As the incidents described below demonstrate, regarding the charged article 8(2)(1) crimes, **YEKATOM** was aware, *inter alia*, of the following factual circumstances: (i) the existence of an armed conflict; (ii) the objects of attack in the relevant locations included the Muslim civilian population as such, individual civilians, persons *hors de combat*, and mosques which were not military objectives; (iii) that persons killed, mutilated, subject to cruel treatment, torture, and/or outrages upon personal dignity, were civilians taking no active part in hostilities, or persons *hors de combat*; and (iv) that children under age 15

<sup>1002</sup> See above, paras.171, 358, 363, and 376.

<sup>1003</sup> See above, paras.150-197.

<sup>1004</sup> [CAR-OTP-0080-0685](#), at 0686; [CAR-OTP-2025-0380](#), at 0382; see also [CAR-OTP-2006-1210](#), at 1211-1212.

were enlisted and conscripted by the Anti-Balaka and in YEKATOM's Group and used in hostilities, or alternatively, these circumstances should have been known.

## VII. CHARGED ANTI-BALAKA CRIMES

389. The Charged Crimes were committed pursuant to an Anti-Balaka Criminal Policy and Common Purpose which entailed the targeting of the civilian Muslim population in western CAR, which, based on their religious, national or ethnic affiliation, was perceived as collectively responsible for, complicit with, and/or supportive of, the Seleka.<sup>1005</sup>

390. From September 2013 onwards, the Anti-Balaka injured, expelled, hunted, and killed members of the Muslim civilian population and others perceived to have supported the Seleka.

391. **YEKATOM** and **NGAISSONA** are criminally responsible for Anti-Balaka crimes committed in western CAR, as specified herein:

### A. BOEING AND CATTIN (BANGUI)

#### a) *General*

392. BANGUI is the capital of CAR. It is situated on the OUBANGUI river, just across from ZONGO, DRC. In 2011, its population stood at 740,000.<sup>1006</sup> Before the conflict, approximately 130,000 Muslims resided in the city's<sup>1007</sup> neighbourhoods and eight *arrondissements*, including CATTIN (located in the 3<sup>e</sup> *arrondissement*) and BOEING.<sup>1008</sup> BOEING is located within BIMBO, adjacent to BANGUI.<sup>1009</sup>

#### b) *Crimes committed*

### Count 1 – Directing attacks against the civilian population (article 8(2)(e)(i))

<sup>1005</sup> See Confirmation Decision, para.70 (finding that “the Anti-Balaka carried out attack pursuant to an organisational policy of a *criminal* nature, targeting the Muslim civilian population in western CAR”) (emphasis added); see *above*, para.170.

<sup>1006</sup> [CAR-OTP-2001-3319](#), at 3321.

<sup>1007</sup> [CAR-OTP-2001-4429](#), at 4429.

<sup>1008</sup> [CAR-OTP-2001-4493](#), at 4493; [CAR-OTP-2020-0019](#), at 0029; [CAR-OTP-0080-0840](#), at 0842.

<sup>1009</sup> [CAR-OTP-2101-1231](#), at 1231; [CAR-OTP-2092-2981](#), at 2983.

393. As mentioned above, in the early morning hours of 5 December 2013, the Anti-Balaka mounted a coordinated attack on BANGUI and BOEING.<sup>1010</sup> The attack included elements who were assembled and trained at GOBERE under the leadership of FACA members and others, to whom Bernard MOKOM and NGAISSONA provided, *inter alia*, money and weapons.<sup>1011</sup>

394. They proceeded simultaneously from different directions: some were under the command of FACA officers **YEKATOM**, **KONATE**, [REDACTED], **NGREMANGO**, **BAWA**; others were led by *de facto* military chiefs, like **Olivier FEISSONA**, **ANDJILO**, **LEBENE**, and **MAZIMBELE**. They attacked multiple locations, including *Camp Kassai* (a Seleka-held base), *Camp de Roux*, *Camp des sapeurs pompiers*, *Assemblée Nationale*, and the *Centre protestant pour la jeunesse* (“CPJ”).<sup>1012</sup> Targeted Seleka positions were followed by attacks on Muslim civilians.<sup>1013</sup>

395. Christians warned of the 5 December 2013 Attack in advance were advised to place palm branches in front of their houses — a Christian tradition in CAR during mourning — signalling to the attacking Anti-Balaka which houses to spare.<sup>1014</sup> The same *modus operandi* was used in Anti-Balaka attacks at **CARNOT**,<sup>1015</sup> **BERBERATI**,<sup>1016</sup> and **GUEN**.<sup>1017</sup>

<sup>1010</sup> See above, para.113.

<sup>1011</sup> See above, para.93.

<sup>1012</sup> **P-2232**: [CAR-OTP-2100-2569-R01](#), at 2576, 2593, paras.38, 140; **P-0888**: [CAR-OTP-2031-0217-R01](#), at 0222, paras.30-31; **P-0889**: [CAR-OTP-2027-2290-R01](#), at 2297, paras.41-42; **P-1847**: [CAR-OTP-2061-1534-R01](#), at 1562, 1564, paras.180-183, 189-191; **P-0446**: [CAR-OTP-2059-1672-R01](#), at 1689-1693, 1.634-779; **P-0975**: [CAR-OTP-2033-7885-R02](#), at 7891, para.39; **P-1339**: [CAR-OTP-2041-0741-R01](#), at 0751, paras.68-69; **P-0884**: [CAR-OTP-2072-1814-R01](#), at 1824-1825, 1839-1841, 1.333-388, 877-950; **P-0567**: [CAR-OTP-2059-0084-R02](#), at 0090-0091, 0102, paras.29-39, 114; **P-2546**: [CAR-OTP-2114-0402-R01](#), at 0416-0417, para.53; **P-1143**: [CAR-OTP-2058-0227-R02](#), at 0238, para.72; **P-0458**: [CAR-OTP-2118-2341-R01](#), at 2361-2362, 1.660-695, [CAR-OTP-2118-2568-R01](#), at 2571, 1.86-95; **P-1521**: [CAR-OTP-2046-0603-R01](#), at 0611-0613, para.42-60; [CAR-OTP-2091-0264-R01](#), at 0267. See also **P-2012**: [CAR-OTP-2091-0127-R01](#), at 0130, para.18; **P-0520**: [CAR-OTP-2050-0788-R01](#), at 0796, para.40.

<sup>1013</sup> See [CAR-OTP-2001-4190](#), at 4190; [CAR-OTP-2001-0329](#), at 0329, 0339, paras.2, 47-49; [CAR-OTP-2001-0310](#), at 0310, 0312; **P-0520**: [CAR-OTP-2050-0788-R01](#), at 0799, para.53; **P-2472**: [CAR-OTP-2110-0355-R01](#), at 0358, para.19; **P-1143**: [CAR-OTP-2058-0227-R02](#) at 0239, para.80; for Muslim victims at the Ali BABOLO mosque in BANGUI, see below, footnotes 1026-1027.

<sup>1014</sup> **P-1584**: [CAR-OTP-2056-0447-R01](#), at 0458-0459, paras.70-75; **P-1528**: [CAR-OTP-2048-0757-R03](#), at 0763, para.33; **P-2698**: [CAR-OTP-2126-0254-R01](#), at 0257, para.17; **P-1442**: [CAR-OTP-2077-0520-R01](#), at 0530, para. 60.

<sup>1015</sup> **P-2393**: [CAR-OTP-2108-0140-R02](#), at 0161, paras.107-108.

<sup>1016</sup> See above, para.165; **P-2325**: [CAR-OTP-2100-2386-R01](#), at 2391, paras.23; **P-2326**: [CAR-OTP-2100-2178-R01](#), at 2199, para.107.

<sup>1017</sup> See above, paras.159-160.

396. **YEKATOM**, who had agreed with MOKOM to participate in the offensive,<sup>1018</sup> moved his troops from KALANGOI via PROJET to attack BOEING, including the BOEING market.<sup>1019</sup> **YEKATOM** and his elements moved on to attack CATTIN,<sup>1020</sup> killing at least four Muslims.<sup>1021</sup> While retreating from CATTIN back to BOEING, members of **YEKATOM**'s Group shouted that they would first kill DJOTODIA, and then return to kill *all* Muslims.<sup>1022</sup>

397. There is no indication that any of the victims were engaged in combat.<sup>1023</sup>

398. The following submissions under Counts (2-3) (murder), Counts (4-5) (forcible transfer, deportation, and displacement), Count (6) (attacks against buildings dedicated to religion), and Count (8) (persecution) qualify as the underlying conduct of the war crime of directing attacks against the civilian population.

**Count 2 – Murder (article 7(1)(a))**

**Count 3 – Murder (article 8(2)(c)(i))**

399. During the attack on BOEING and CATTIN, **YEKATOM**'s elements killed between five and thirteen Muslim civilians (including traders at the BOEING Market<sup>1024</sup>). Among the victims were [REDACTED] and his family members.<sup>1025</sup> The bodies of some of the Muslim traders killed were brought to the Ali BABOLO mosque in PK5,<sup>1026</sup> where they

<sup>1018</sup> [REDACTED]. See also footnote 214.

<sup>1019</sup> **P-2125**: [CAR-OTP-2082-0299-R03](#), at 0321, paras.126-131; **P-1339**: [CAR-OTP-2041-0741-R01](#), at 0751, paras.67-71; **P-2475**: [CAR-OTP-2110-0556-R03](#), at 0571, 0572, paras.102-108; **P-1442**: [CAR-OTP-2077-0520-R01](#), at 0527-0528, paras.41, 50; **P-1490**: [CAR-OTP-2121-2788-R01](#), at 2792 and 2794, paras.29-32, 53-56; **P-0458**: [CAR-OTP-2118-2477-R01](#), at 2490, 1.425-432; [CAR-OTP-2118-2568-R01](#), at 2571, 1.86-95.

<sup>1020</sup> **P-1339**: [CAR-OTP-2041-0741-R01](#), at 0752, para.77; **P-1819**: [CAR-OTP-2065-0003-R01](#), at 0022; [CAR-OTP-2101-0340](#), at 0340; [CAR-OTP-2012-0523](#), from [00:18:00] to [00:18:14], and its transcript [CAR-OTP-2072-0558](#) at 0572, 1.441-449; **P-2328**: [CAR-OTP-2099-0165-R01](#), at 0182, paras.87-88; **P-1528**: [CAR-OTP-2048-0757-R03](#), at 0762, para.30.

<sup>1021</sup> **P-1339**: [CAR-OTP-2041-0741-R01](#), at 0752, para.77.

<sup>1022</sup> **P-1528**: [CAR-OTP-2048-0757-R03](#), at 0762, para.30.

<sup>1023</sup> **P-1339**: [CAR-OTP-2041-0741-R01](#), at 0752, para.77; **P-1528**: [CAR-OTP-2048-0757-R03](#), at 0762-0763, para.31; [CAR-OTP-2101-0340](#), at 0340; **P-1442**: [CAR-OTP-2077-0520-R01](#), at 0530, para. 62-66.

<sup>1024</sup> **P-1528**: [CAR-OTP-2048-0757-R03](#), at 0762, para.27; **P-1416**: [CAR-OTP-2045-0150-R02](#), at 0159; **P-2475**: [CAR-OTP-2110-0556-R03](#), at 0572, paras.106, 108, 111; **P-2682**: [CAR-OTP-2126-0205-R01](#) at 0214-0215, para.54; **P-2233**: [CAR-OTP-2118-6014-R01](#), at 6020-6029, 6032, 1.181-508, 616-625.

<sup>1025</sup> **P-1437**: [CAR-OTP-2047-0257-R02](#), at 0263, paras.45-46; **P-1339**: [CAR-OTP-2041-0741-R01](#), at 0751-0752, paras.71-72; **P-2475**: [CAR-OTP-2110-0556-R03](#), at 0572, paras.106, 108, 111; **P-2682**: [CAR-OTP-2126-0205-R01](#), at 0214, 0217, paras.53-54, 71; **P-1416**: [CAR-OTP-2045-0150-R02](#), at 0159, paras.76-77.

<sup>1026</sup> **P-1442**: [CAR-OTP-2077-0520-R01](#), at 0526-0527, paras.35, 38, 42, 45; **P-2682**: [CAR-OTP-2126-0205-R01](#) at 0214, 0217, paras.54, 71; **P-2698**: [CAR-OTP-2126-0254-R01](#) at 0257, para.16.

laid among over sixty Muslims who died in the broader 5 December 2013 BANGUI Attack.<sup>1027</sup>

400. During the attack on CATTIN, elements of YEKATOM's Group killed at least four Muslims. There is no evidence that the victims were directly participating in hostilities when killed, and their civilian status is legally presumed.<sup>1028</sup> As a **YEKATOM** subordinate stated, "[o]ur elements killed four Muslims. I don't know if they were Seleka or not. One was shot on a motorbike. They then burned his body and bike."<sup>1029</sup>

<sup>1027</sup> **P-1676**: [CAR-OTP-2066-0105-R01](#), at 0109-0110, 0113 paras.26-28, 47-50; **P-2472**: [CAR-OTP-2110-0355-R01](#), at 0358, para.19; **P-2354**: [CAR-OTP-2105-0991-R01](#), at 0996, para.29; **P-1588**: [CAR-OTP-2056-0412-R04](#), at 0421-0422, paras.52-59; **P-0505**: [CAR-OTP-2014-0129-R01](#), at 0136, para. 39; [CAR-OTP-2117-1138](#); [CAR-OTP-2117-1190](#); [CAR-OTP-2117-1192](#); [CAR-OTP-2117-1194](#); [CAR-OTP-2117-1196](#); [CAR-OTP-2117-1198](#); [CAR-OTP-2117-1298](#). See also [CAR-OTP-2095-9141](#), from [00:00:00] to [00:04:39] and its transcript and translation [CAR-OTP-2127-6284](#), at 6285, and [CAR-OTP-2127-6413](#), at 6415, l.1-34; [CAR-OTP-2096-2489](#) from [00:00:00] to [00:00:39] and its transcript and translation [CAR-OTP-2127-4526](#) and [CAR-OTP-2127-4620](#); [CAR-OTP-2096-2493](#) from [00:00:00] to [00:00:40] and its transcript and translation [CAR-OTP-2130-0331](#) and [CAR-OTP-2130-0378](#); [CAR-OTP-2096-2494](#) from [00:00:00] to [00:00:39] and its transcript and translation [CAR-OTP-2122-9551](#) and [CAR-OTP-2122-9579](#); [CAR-OTP-2096-2495](#), from [00:00:00] to [00:00:14] and its transcript and translation [CAR-OTP-2122-9553](#) and [CAR-OTP-2122-9582](#); [CAR-OTP-2100-1914](#) from [00:01:12] to [00:02:39] and its transcript and translation [CAR-OTP-2118-0012](#), at 0013-0014, l.001-066 and [CAR-OTP-2125-0521](#), at 0523-0524, l. 001-066; [CAR-OTP-2030-0058](#) at 0058-0059; [CAR-OTP-2030-0065](#); [CAR-OTP-2053-0538](#), at 0543. For P-2377 reporting from the Ali BABOLO Mosque on 05 December 2013, see **P-2377**: [CAR-OTP-2108-0609-R01](#), at 0619-0622, 0627-0628, paras.47-49; [CAR-OTP-2108-0632](#), at 0653-0654; [CAR-OTP-2108-0682](#), from [00:00:00] to [00:02:28], and its transcript and translation, [CAR-OTP-2122-6026](#), at 6027-6028, l.5-54, and [CAR-OTP-2122-6035](#), at 6037-6038, l.5-60; [CAR-OTP-2108-1454](#), from [00:00:00] to [00:01:57] and its transcript and translation [CAR-OTP-2122-9643](#), at 9644, l.7-33, and [CAR-OTP-2122-9712](#), at 9714, l.7-32; [CAR-OTP-2108-1455](#), from [00:00:00] to [00:00:46] and its transcript [CAR-OTP-2122-7419](#); [CAR-OTP-2108-1456](#), from [00:00:00] to [00:00:39] and its transcript and translation [CAR-OTP-2127-4154](#), and [CAR-OTP-2127-4201](#); [CAR-OTP-2108-1457](#), from [00:00:00] to [00:00:39] and its transcript [CAR-OTP-2122-7421](#), at 7422, l.3-11; [CAR-OTP-2108-1462](#), from [00:00:00] to [00:00:39] and its transcript [CAR-OTP-2122-7427](#) at 7428, l.3-8; [CAR-OTP-2108-1463](#), from [00:00:00] to [00:00:13] and its transcript [CAR-OTP-2122-7429](#); [CAR-OTP-2108-1465](#), from [00:00:00] to [00:01:05] and its transcript and translation [CAR-OTP-2122-9646](#), and [CAR-OTP-2122-9716](#) at 9718, l.3-15; [CAR-OTP-2108-1466](#), from [00:00:00] to [00:00:04] and its transcript and translation [CAR-OTP-2127-4156](#), and [CAR-OTP-2127-4204](#), at 4204, 42-394240, l.1-8; [CAR-OTP-2108-1458](#) from [00:00:00] to [00:01:04] and its transcript [CAR-OTP-2122-7423](#), at 7424, l.3-26; [CAR-OTP-2108-1459](#) from [00:00:00] to [00:01:35] and its transcript, [CAR-OTP-2127-6795](#); [CAR-OTP-2108-1460](#) from [00:00:00] to [00:01:10] and its transcript, [CAR-OTP-2127-6797](#); [CAR-OTP-2108-1468](#), from [00:00:00] to [00:02:23] and its transcript and translation [CAR-OTP-2127-4161](#) and [CAR-OTP-2127-4211](#), at 4213-4215, l.4-74; [CAR-OTP-2108-1474](#) from [00:00:00] to [00:02:36] and its transcript [CAR-OTP-2127-6799](#). For P-0342 photographs from the Ali BABOLO Mosque on 05 December 2013, see **P-0342**: [CAR-OTP-2116-0216-R01](#), at 0256-0257, paras.245-248, and [CAR-OTP-2073-0386](#); [CAR-OTP-2073-0387](#); [CAR-OTP-2073-0388](#); [CAR-OTP-2073-0389](#); [CAR-OTP-2073-0309](#); [CAR-OTP-2073-0391](#); [CAR-OTP-2073-0392](#); [CAR-OTP-2073-0393](#); [CAR-OTP-2073-0394](#); and [CAR-OTP-2073-0395](#).

<sup>1028</sup> See International Committee of the Red Cross, Interpretive Guidance on the Notion of Direct Participation in Hostilities under International Humanitarian Law, May 2009, p.76 (noting "[t]he presumption of civilian protection applies, *a fortiori*, in case of doubt as to whether a person has become a member of an organized armed group belonging to a party to the conflict") <https://www.refworld.org/pdfid/4a670dec2.pdf>.

<sup>1029</sup> [REDACTED].

**Count 4 – Forcible transfer, deportation (article 7(1)(d))****Count 5 – Displacement (article 8(2)(e)(viii))**

401. In response to Anti-Balaka attacks, from 5 December 2013 onwards, Muslim residents of CATTIN and BOEING were forced to flee their homes and communities to the predominantly Muslim neighbourhood of PK5,<sup>1030</sup> to other parts of CAR, or to neighbouring countries fearing for their safety.<sup>1031</sup> In CATTIN, armed with a Kalishnikov, **YEKATOM** and his armed elements were seen walking the streets within two days of the attack.<sup>1032</sup> In BOEING, they threatened [REDACTED] for information on where Muslim houses were located.<sup>1033</sup> Anti-Balaka elements also established barriers in BANGUI to identify and target Muslims.<sup>1034</sup>

402. The 5 December 2013 Attack and its aftermath caused the number of internally displaced people in the 3<sup>e</sup> *arrondissement* to increase by 100,000 in the first month thereafter, before dropping to 20,000 in early March,<sup>1035</sup> as people fled BANGUI and BOEING.<sup>1036</sup> The attack on BOEING and CATTIN by **YEKATOM** and his Group directly contributed to the Muslim exodus in western CAR. In 2014, approximately 99% of BANGUI's Muslim population was gone.<sup>1037</sup> Many of those remaining were confined to

<sup>1030</sup> **P-1990**: [CAR-OTP-2124-0247-R01](#), at 0252, para.24; *see, e.g.* **P-0342**: [CAR-OTP-2116-0216-R01](#), at 0261-0262, paras.281-285, and associated photographs [CAR-OTP-2073-0252](#); [CAR-OTP-2073-0256](#); [CAR-OTP-2073-0258](#); [CAR-OTP-2073-0259](#); [CAR-OTP-2073-0260](#); [CAR-OTP-2073-0264](#); [CAR-OTP-2073-0265](#); [CAR-OTP-2073-0266](#); [CAR-OTP-2073-0267](#); [CAR-OTP-2073-0269](#); and [CAR-OTP-2073-0271](#).

<sup>1031</sup> **P-1339**: [CAR-OTP-2041-0741-R01](#), at 0752, para.74; **P-1528**: [CAR-OTP-2048-0757-R03](#), at 0764, 0765, paras.39, 49; **P-1839**: [CAR-OTP-2072-0578-R01](#), at 0584, l.183-218; [CAR-OTP-2101-0340](#), at 0340; **P-1442**: [CAR-OTP-2077-0520-R01](#), at 0527, 0533, paras.41, 82-83; **P-1490**: [CAR-OTP-2121-2788-R01](#), at 2792-2793, paras.29-36; **P-0473**: [CAR-OTP-2124-0224-R01](#), at 0236, para.72; **P-2472**: [CAR-OTP-2110-0355-R01](#), at 0360, para.19; **P-1865**: [CAR-OTP-2066-0134-R01](#), at 0143 para.46; **P-1143**: [CAR-OTP-2058-0227-R02](#), at 0239, para.76.

<sup>1032</sup> **P-1442**: [CAR-OTP-2077-0520-R01](#), at 0529, paras.53-54.

<sup>1033</sup> **P-1490**: [CAR-OTP-2121-2788-R01](#), at 2792-2793, paras.29-36.

<sup>1034</sup> **P-0520**: [CAR-OTP-2050-0788-R01](#), at 0797, para.43; **P-1442**: [CAR-OTP-2077-0520-R01](#), at 0527-0528, paras.41, 50.

<sup>1035</sup> [CAR-OTP-2110-0460](#), at 0460.

<sup>1036</sup> **P-1676**: [CAR-OTP-2066-0105-R01](#), at 0119-0120, paras.82-89; *see also* [CAR-OTP-2127-4059](#), at 4059-4060; [CAR-OTP-2127-4061](#), at 4061; [CAR-OTP-2127-4062](#), at 4062; [CAR-OTP-2127-4063](#), at 4063; [CAR-OTP-2127-4086](#), at 4086; [CAR-OTP-2127-4094](#), at 4094; [CAR-OTP-2127-4124](#), at 4125-4126. For P-0342 photographs of Muslim convoy leaving PK5 on 14 January 2014, *see* **P-0342**: [CAR-OTP-2116-0216-R01](#), at 0259-0260, paras.266-275, and [CAR-OTP-2073-0327](#); [CAR-OTP-2073-0328](#); [CAR-OTP-2073-0329](#); [CAR-OTP-2073-0330](#); [CAR-OTP-2073-0331](#); [CAR-OTP-2073-0332](#); [CAR-OTP-2073-0333](#); [CAR-OTP-2073-0334](#); [CAR-OTP-2073-0335](#); [CAR-OTP-2073-0336](#); [CAR-OTP-2073-0337](#); [CAR-OTP-2073-0338](#); and [CAR-OTP-2073-0339](#).

<sup>1037</sup> [CAR-OTP-2083-0437](#), at 0474.

PK5, having fled there, and unable to leave without risking death (“PK5 Enclave”).<sup>1038</sup> They were forced to endure the lack of adequate food, shelter, and health care.<sup>1039</sup>

### Count 6 – Attacks against buildings dedicated to religion (article 8(2)(e)(iv))

403. By 20 December 2013 at the latest, **YEKATOM** ordered the destruction of the BOEING Mosque — members of YEKATOM’s Group carried out his order, using rockets and grenades to destroy the structure’s walls, and then burned it down.<sup>1040</sup> OUANDJIO, Habib BEINA, Junior KEMPES (“KEMPES”), [REDACTED] participated in the crime.<sup>1041</sup> All that is left of the mosque is a concrete slab where it stood.<sup>1042</sup> The [REDACTED] and his extended family fled the area because of the attack, and never moved back.<sup>1043</sup>

### Count 8 – Persecution (article 7(1)(h))

404. The crimes and acts described above were committed by **YEKATOM**, YEKATOM’s Group, and other Anti-Balaka elements, in a coordinated effort to cleanse BOEING and CATTIN of their Muslim population, if not all of BANGUI. That effort demonstrates the Criminal Policy and Common Purpose which involved YEKATOM’s Group, its leadership, and other elements under the *de facto* Anti-Balaka Coordination.<sup>1044</sup>

405. The Anti-Balaka’s attack on, and murder of, Muslim civilians in BOEING and CATTIN; their expulsion; the destruction of their place of worship; and the commission of violent crimes and acts, all severely deprived Muslims in BOEING and CATTIN of

<sup>1038</sup> [CAR-OTP-2053-0538](#), at 0538-0539; **P-2698**: [CAR-OTP-2126-0254-R01](#), at 0258, para.17; **P-2328**: [CAR-OTP-2099-0165-R01](#) at 0781, para.174; **P-1921**: [CAR-OTP-2081-0072-R02](#), at 0077, 0080, paras.30, 42-43; **P-2472**: [CAR-OTP-2110-0355-R01](#), at 0362, para.39; [CAR-OTP-2108-1635](#) from [00:00:00] to [00:01:30] and its transcript [CAR-OTP-2127-6802](#).

<sup>1039</sup> **P-1865**: [CAR-OTP-2066-0134-R01](#), at 0143, para. 45; [CAR-OTP-2053-0538](#), at 0538-0539.

<sup>1040</sup> **P-1339**: [CAR-OTP-2041-0741-R01](#), at 0749, paras.53-54; **P-1437**: [CAR-OTP-2047-0257-R02](#), at 0267, para.73; **P-1721**: [CAR-OTP-2061-0044-R01](#), at 0051, paras.45-46 and at 0052, para.51; **P-2682**: [CAR-OTP-2126-0205-R01](#), at 0215, para.56.

<sup>1041</sup> **P-1339**: [CAR-OTP-2041-0741-R01](#), at 0749, 0750, paras.53, 63.

<sup>1042</sup> For recent video and photographs showing the former location of the BOEING Mosque, see **P-1528**: [CAR-OTP-2121-2831-R01](#), at 2835, paras.27-28; [CAR-OTP-2121-2859](#) from [00:00:00] to [00:00:18]; [CAR-OTP-2121-2857](#); [CAR-OTP-2121-2858](#); [CAR-OTP-2121-2839-R01](#), at 2840; see also **P-1442**: [CAR-OTP-2077-0520-R01](#), at 0531, paras.70-72; [CAR-OTP-2127-6617](#), at 6620-6621; [CAR-OTP-2127-6626](#), at 6627 (inset 1).

<sup>1043</sup> [REDACTED].

<sup>1044</sup> See above, paras.379-388.

fundamental rights. These include the rights to life, liberty, mental and bodily integrity, dignity, and religious freedom.

c) *Direct perpetrators of the crimes*

406. **YEKATOM** and elements of his Group committed the attack on BOEING and CATTIN and the constituent crimes.

407. *First*, before its execution, **YEKATOM** instructed his elements on the plan, telling them that they would attack Muslims *and* Seleka at the BOEING Market.<sup>1045</sup>

408. *Second*, **YEKATOM** led his troops during the attack on BOEING<sup>1046</sup> and CATTIN,<sup>1047</sup> actively taking part in the hostilities.<sup>1048</sup> His deputies OUANDJIO and Habib BEINA, and members KEMPES, [REDACTED], participated in the commission of the crimes.<sup>1049</sup>

409. *Third*, **YEKATOM** ordered the commission of crimes during and following the attack. He gave specific instructions to “shoot the Muslims” at the BOEING Market,<sup>1050</sup> and he ordered the destruction of the BOEING Mosque.<sup>1051</sup>

d) *Knowledge and intent of YEKATOM*

410. **YEKATOM**’s knowledge and intent is demonstrated by the crimes he led, ordered, and committed together with members of his Group and other Anti-Balaka groups under the *de facto* Coordination during the 5 December 2013 BANGUI Attack.

<sup>1045</sup> **P-1339**: [CAR-OTP-2041-0741-R01](#), at 0751, paras.67-68; **P-2475**: [CAR-OTP-2110-0556-R03](#), at 0571, 0572, paras.102-108.

<sup>1046</sup> **P-1339**: [CAR-OTP-2041-0741-R01](#), at 0751, paras.67-71; **P-2475**: [CAR-OTP-2110-0556-R03](#), at 0568-0569, 0570, 0572 paras.86-89, 96-97, 102, 110; **P-2125**: [CAR-OTP-2082-0299-R03](#), at 0321, paras.126-131; **P-2472**: [CAR-OTP-2110-0355-R01](#), at 0360, para.26.

<sup>1047</sup> **P-1339**: [CAR-OTP-2041-0741-R01](#), at 0752, para.77; **P-1819**: [CAR-OTP-2065-0003-R01](#), at 0022; [CAR-OTP-2101-0340](#), at 0340; [CAR-OTP-2012-0523](#), from [00:18:00] to [00:18:14] and its transcript [CAR-OTP-2072-0558](#) at 0572, l.441-449; **P-2328**: [CAR-OTP-2099-0165-R01](#), at 0182, paras.87-88.

<sup>1048</sup> **P-1339**: [CAR-OTP-2041-0741-R01](#), at 0751-0752, para.71; **P-2233**: [CAR-OTP-2118-6014-R01](#), at 6027-6029, l.424-508.

<sup>1049</sup> **P-1339**: [CAR-OTP-2041-0741-R01](#), at 0749-0752, paras.53, 63 and 71.

<sup>1050</sup> **P-1339**: [CAR-OTP-2041-0741-R01](#), at 0751-0752, para.71.

<sup>1051</sup> **P-1339**: [CAR-OTP-2041-0741-R01](#), at 0749-0750, paras.53, 63; **P-1721**: [CAR-OTP-2061-0044-R01](#), at 0051, paras.45-46 and at 0052, para.51.

e) *Knowledge and intent of NGAISSONA*

i. **NGAISSONA helped plan the 5 December 2013 attacks**

411. As a key member of the *de facto* Coordination and participant in the planning of the Anti-Balaka's offensive, **NGAISSONA** was fully aware of the group's operations in BANGUI and its surroundings on 5 December 2013.

412. The participation of YEKATOM's Group in the 5 December 2013 Attack was planned together with the *de facto* Coordination.<sup>1052</sup> **YEKATOM** liaised and coordinated with MOKOM and other key members of the *de facto* Coordination to prepare for, and participate in, the 5 December 2013 Attack. Immediately before and also after the 5 December 2013 Attack, **YEKATOM** was in contact with MOKOM and other key Anti-Balaka leaders, including WENEZOU, KAMEZOLAI, and NGREMANGOU.<sup>1053</sup>

413. Call Data Records ("CDR") show that shortly before and after the 5 December 2013 BANGUI Attack through 13 January 2014, **NGAISSONA** was in contact with NGREMANGOU, WENEZOU, MOKOM, FEISSONA, KONATE, NAMSIO, and NGAYA,<sup>1054</sup> who – along with KAMEZOLAI – were also meeting among themselves in that period and with **YEKATOM**.<sup>1055</sup> CDR also show that **YEKATOM** was in contact with MOKOM through the end of November 2013 and the days leading up to the 5 December 2013 BANGUI Attack, including on the afternoon of 4 December 2013.<sup>1056</sup>

414. Moreover, as a FROCCA member — which claimed and supported the attack,<sup>1057</sup> **NGAISSONA** would have known about it as well. Further, the attack itself and the crimes the Anti-Balaka committed were heavily and contemporaneously reported in the media.<sup>1058</sup>

<sup>1052</sup> See above, paras.112, 393-394.

<sup>1053</sup> See above, paras.90114.

<sup>1054</sup> CDR show that between December 2013 and 13 January 2014, **NGAISSONA** ([REDACTED]) communicated with MOKOM ([REDACTED]); FEISSONA ([REDACTED]); KONATE ([REDACTED]); NAMSIO ([REDACTED]); NGAYA ([REDACTED]); NGREMANGOU ([REDACTED]) and WENEZOU ([REDACTED]): [CAR-OTP-2008-0483](#); [CAR-OTP-2019-2839](#); [CAR-OTP-2054-1480](#); [CAR-OTP-2054-1481](#); [CAR-OTP-2112-1435](#); [CAR-OTP-2019-1361](#); [CAR-OTP-2112-1427](#). For the attributions of the relevant telephone numbers, see Annex D.

<sup>1055</sup> See **P-0954**: [CAR-OTP-2048-0171-R02](#), at 0177-0178, paras.41-42.

<sup>1056</sup> See above, fn.214.

<sup>1057</sup> See above, paras.96, 107.

<sup>1058</sup> See e.g.: [CAR-OTP-2001-4091](#); [CAR-OTP-2001-2035](#); [CAR-OTP-2042-5124](#); [CAR-OTP-2042-5290](#); [CAR-OTP-2051-1036](#); [CAR-OTP-2088-0039](#); [CAR-OTP-2012-0523](#), from [00:01:28] to [00:02:19] and its transcript [CAR-OTP-2072-0558](#) at 0560-0561, l.20-51 – see commentary provided by **P-1819**: [CAR-](#)

## ii. NGAISSONA intended and endorsed the types of crimes committed

415. After the 5 December 2013 Attack, **YEKATOM** continued to meet and coordinate with senior Anti-Balaka leaders, including **NGAISSONA**, **WENEZOU**, **MOKOM**, **KAMEZOLAI**, **FEISSONA**, **NGREMANGO**, and other Anti-Balaka commanders.<sup>1059</sup> Members of the National Coordination, including some representing **NGAISSONA**,<sup>1060</sup> also visited **YEKATOM**'s area of control after the 5 December 2013 Attack, such as **PK9** and the **YAMWARA** School, and reported back to the Coordination.<sup>1061</sup>

416. Throughout the relevant time period, **YEKATOM** reported to and coordinated with **NGAISSONA**, as **YEKATOM** and his Group operated under the National Coordination.<sup>1062</sup> As such, **NGAISSONA** had knowledge of the crimes as a leader of the *de facto* Coordination. Yet **NGAISSONA** did nothing to impede or condemn

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[OTP-2065-0003-R01](#), at 0013, paras.51-53; [CAR-OTP-2094-1895](#); **P-2377**: [CAR-OTP-2108-0609-R01](#), at 0612, 0617-0619, para.17; [CAR-OTP-2108-0682](#), from [00:00:00] to [00:02:28] and its transcript and translation, [CAR-OTP-2122-6026](#), at 6027-6028, l.5-54, and [CAR-OTP-2122-6035](#), at 6037-6038, l.5-60.<sup>1059</sup> See above, paras.412413; **P-0487**: [CAR-OTP-2076-0146-R01](#), at 0158-0159, 0162-0163, l.427- 448, l.479-481 l.585-588, l.614-631; **P-1339**: [CAR-OTP-2041-0741-R01](#), at 0746, 0747, 0750, 0753-0755, paras.36, 42, 64-65, 82, 90, 100; **P-1786**: [CAR-OTP-2058-0200-R01](#), at 0205, para.29; **P-0954**: [CAR-OTP-2048-0171-R02](#), at 0176-0179, paras.35-47; **P-0876**: [CAR-OTP-2046-0267-R01](#), at 0275-0276, l.311-325; **P-0808**: [CAR-OTP-2093-0010-R01](#), at 0028, para.102; [CAR-OTP-2065-4880](#), from [00:00:00] to [00:05:15] and its transcript [CAR-OTP-2107-1551](#), at 1552-1553, l.1-66, at 1555, l.107-111 [CAR-OTP-2055-2610](#), from [00:01:17] to [00:03:04] and its transcript and translation, [CAR-OTP-2107-6906](#), at 6909-6910, l.39-99 and [CAR-OTP-2122-2271](#), 2275-2276, l.39-99; **P-1521**: [CAR-OTP-2046-0603-R01](#), at 0616, paras.78-79; **P-1819**: [CAR-OTP-2065-0003-R01](#), at 0012; [CAR-OTP-2032-0074](#); **P-1962**: [CAR-OTP-2068-0037-R02](#), at 0040, para.30. CDR show that after 5 December 2013 and throughout 2014, **YEKATOM** ([REDACTED]) communicated with Anti-Balaka National Coordination and senior Anti Balaka members such as: **MOKOM** ([REDACTED]); **NGAISSONA** ([REDACTED]); **NGREMANGO** ([REDACTED]); **KAMEZOLAI** ([REDACTED]); **WENEZOU** ([REDACTED]); **FEISSONA** ([REDACTED]); [CAR-OTP-2008-0483](#); [CAR-OTP-2019-1364](#); [CAR-OTP-2019-2839](#); [CAR-OTP-2054-1480](#); [CAR-OTP-2054-1481](#); [CAR-OTP-2054-1482](#); [CAR-OTP-2054-1483](#); [CAR-OTP-2068-0033](#); [CAR-OTP-2069-0479](#). CDR also show that after 5 December 2013 and throughout 2014, **YEKATOM** ([REDACTED]) communicated with Anti-Balaka commanders and leaders such as: **BAYO** ([REDACTED]); **DAWILI** ([REDACTED]); **DONOH** ([REDACTED]); **GANAZOU** ([REDACTED]); **GOTHIAS** ([REDACTED]); **GOUGA YMBY** ([REDACTED]); **KEANSSEM** ([REDACTED]); **MBOMON** ([REDACTED]); **MOKPEM** ([REDACTED]); **MOMOKAMA** ([REDACTED]); **NAMGUENDE** ([REDACTED]); **NGANABEAM** ([REDACTED]); **Jean OROFEI** ("Jean OROFEI") ([REDACTED]); **Patrick OROFEI** ("Patrick OROFEI") ([REDACTED]); **TOUABOYE** ([REDACTED]); **TRIBUNAL** ([REDACTED]); **YAORE** ([REDACTED]); **YOMBO** ([REDACTED]) and **ZILABO** ([REDACTED]); [CAR-OTP-2019-2839](#), [CAR-OTP-2019-1364](#), [CAR-OTP-2054-1480](#), [CAR-OTP-2054-1481](#), [CAR-OTP-2054-1482](#), [CAR-OTP-2054-1483](#), [CAR-OTP-2054-1484](#), [CAR-OTP-2057-0421](#), [CAR-OTP-2057-0462](#), [CAR-OTP-2068-0033](#). For the attributions of the relevant telephone numbers, see Annex D.<sup>1060</sup> [REDACTED].

<sup>1061</sup> **P-0808**: [CAR-OTP-2093-0010-R01](#), at 0028, para.102. For **NGREMANGO** visiting **YEKATOM**'s base see also [CAR-OTP-2065-4902](#) [00:01:14] to [00:01:24] [transcript and translation request pending with LSU]; [CAR-OTP-2065-4906](#) [00:00:00] to [00:00:10] [transcript and translation request pending with LSU].

<sup>1062</sup> **P-0487**: [CAR-OTP-2076-0146-R01](#), at 0159, l. 479-481, and 0162, l.585-587; **P-1339**: [CAR-OTP-2041-0741-R01](#), at 0750, para. 65; See above, para.324.

**YEKATOM**'s crimes, knowing that they would occur in the ordinary course of events. Instead, knowing of the crimes, **NGAISSONA** sanctioned their commission by failing to denounce them, inviting **YEKATOM** to high level meetings, and allowing him to represent the Anti-Balaka<sup>1063</sup>— all demonstrating that **NGAISSONA**'s earlier acts and omissions were *intended* to facilitate or otherwise contribute to the commission of the types of crimes that **YEKATOM** and his Group committed.<sup>1064</sup>

## B. BOSSANGO (OUHAM PREFECTURE)

### a) General

417. BOSSANGO is the capital of the OUHAM Prefecture, located around 300 km north of BANGUI and 200 km south of the Chadian border.<sup>1065</sup> Its 2003 population comprised around 36,000 inhabitants, including 8,000 Muslims.<sup>1066</sup>

418. After terrorising the Muslim population around BOSSANGO for months,<sup>1067</sup> and attempting an attack on 17 September 2013,<sup>1068</sup> the Anti-Balaka conducted a second attack on then Seleka-controlled BOSSANGO. The attack, described below, was led by FACA

<sup>1063</sup> See above, para.326.

<sup>1064</sup> [Bemba, et al AJ](#), para.1306 (“The Appeals Chamber recalls that there is no bar to a trial chamber using evidence to infer, either backwards or forward in time ... [there is no] overarching rule prohibiting the use of subsequent evidence to infer that an accused is involved in a common plan at an earlier point in time”); [Bemba, et al TJ](#), para.410 (relating to *post factum* conduct), para.735 *et seq.*, and para. 800 (noting, in the context of an *ex post facto* cover-up, the relevance and probative value of such evidence as follows: “... the above-mentioned intercepts prove that the three co-perpetrators clearly intended to take measures to conceal their *prior activities*. The discussions are therefore revealing with regard to the co-perpetrators’ *earlier activities*”) (emphasis added); see also *Prosecutor v. Popović, et al*, Case No. IT-05-88-T, Judgement, 10 June 2010, para.1067. “[t]he Trial Chamber notes that the reburial operation, which took place during September and October 1995, is corroborative of the Trial Chamber’s finding that the mass executions following the fall of Srebrenica [July 1995] were planned and organised as part of a wide scale, premeditated killing operation”).

<sup>1065</sup> [CAR-OTP-2108-0537](#), at 0546; [CAR-OTP-2075-1375](#), at 1375; [CAR-OTP-2070-0280](#), at 0280; [CAR-OTP-2118-9140](#), at 9140.

<sup>1066</sup> [CAR-OTP-2079-0678](#).

<sup>1067</sup> **P-2200**: [CAR-OTP-2088-2146-R02](#), at 2151-2152, paras.27-28; **P-2049**: [CAR-OTP-2088-2173-R02](#), at 2179-2182, paras.34-49; **P-2453**: [CAR-OTP-2111-0415-R02](#), at 0420-0425, paras.27-46; **P-2462**: [CAR-OTP-2111-0452-R02](#), at 0456-0457, paras.22-26; **P-2657**: [CAR-OTP-2126-0058-R01](#), at 0062-0063, paras.21-24; [CAR-OTP-2108-0903](#), from [00:00:00] to [00:02:42] and its transcript [CAR-OTP-2118-6326](#), at 6327-6328, l.1-49. See also [CAR-OTP-2001-3302](#), at 3304; [CAR-OTP-2049-0462](#), at 0501; [CAR-OTP-2001-6437](#), at 6454; [CAR-OTP-2079-0622](#), at 0632; [CAR-OTP-2001-0391](#), at 0394.

<sup>1068</sup> **P-2200**: [CAR-OTP-2088-2146-R02](#), at 2151-2153, paras.29-38; **P-2049**: [CAR-OTP-2088-2173-R02](#), at 2183-2185, paras.54-61; **P-0567**: [CAR-OTP-2059-0084-R02](#), at 0096, para.76; **P-2453**: [CAR-OTP-2111-0415-R02](#), at 0426, paras.49-51; **P-2462**: [CAR-OTP-2111-0452-R02](#), at 0457-0459, paras.27-34; **P-2658**: [CAR-OTP-2126-0012-R01](#), at 0028,0030, paras.105,119-122; **P-2657**: [CAR-OTP-2126-0058-R01](#), at 0063, paras.28-29, 34; [CAR-OTP-2107-1169](#), from [00:01:22] to [00:01:58] and its transcript and translation [CAR-OTP-2127-4530](#), at 4531, l.29-34 and [CAR-OTP-2127-4626](#), at 4628-4629, l.33-39.

Caporal KEMA and his deputies Alexis MANDAGO (aka “Sol-Sol”) (“MANDAGO”) and DANGBA, and involved other local Anti-Balaka elements (“BOSSANGO Group”).<sup>1069</sup> Among the GOBERE group to whom NGAISSONA and Bernard MOKOM provided support – money and weapons - KEMA was in a command position together with other FACA members.<sup>1070</sup> The attack began the afternoon of 5 December 2013,<sup>1071</sup> a few hours after the 5 December BANGUI Attack.<sup>1072</sup>

b) *Crimes committed*

**Count 30 – Directing attacks against the civilian population (article 8(2)(e)(i))**

419. After having defeated the Seleka, the Anti-Balaka went on to target the town’s Muslim civilian population in residential areas,<sup>1073</sup> killing and injuring several.<sup>1074</sup> In their effort to cleanse the town, the Anti-Balaka made no distinction between Seleka forces and Muslim civilians: “in BOSSANGO, whoever was a Muslim was a Seleka”, and no quarter was given.<sup>1075</sup> As KEMA later confirmed - the objective of the BOSSANGO Group was to chase out not just the Seleka, but all Muslims from OUHAM Prefecture altogether.<sup>1076</sup>

420. The following submissions under Counts 31 and 32 (murder), Count 33 (destruction of the adversary’s property), Count 34 (pillaging), Count 35 (directing attacks against buildings dedicated to religion), Count 37 (forcible transfer and deportation), Count 38 (displacement), Count 39 (imprisonment and other forms of severe deprivation of liberty),

<sup>1069</sup> The “BOSSANGO Group” includes any subgroup or plurality of members / elements thereof, whether or not formally organised or constituted. The BOSSANGO Group is a sub-group of the “Anti-Balaka”.

<sup>1070</sup> [REDACTED].

<sup>1071</sup> P-0966: [CAR-OTP-2031-0241-R01](#), at 0251-0252, paras.59-61; P-2200: [CAR-OTP-2088-2146-R02](#), at 2155, para.44; P-2049: [CAR-OTP-2088-2173-R02](#), at 2187-2188, paras.75-77, 79; P-1577: [CAR-OTP-2081-0769-R01](#), at 0785, 0790; [CAR-OTP-2085-6486](#), from [00:00:00] to [00:04:48] and its transcript and translation [CAR-OTP-2107-6999](#) and [CAR-OTP-2107-7148](#); P-2453: [CAR-OTP-2111-0415-R02](#), at 0428-0430, paras.61-68; P-2269: [CAR-OTP-2111-0336-R01](#), at 0344, para.58; P-2658: [CAR-OTP-2126-0012-R01](#), at 0033, para.131; P-2657: [CAR-OTP-2126-0058-R01](#), at 0064, para.36.

<sup>1072</sup> See above, para.393.

<sup>1073</sup> P-2049: [CAR-OTP-2088-2173-R02](#), at 2188, paras.77-78; P-1577: [CAR-OTP-2081-0769-R01](#), at 0785; P-1577: [CAR-OTP-2085-6486](#), from [00:00:00] to [00:04:48] and its transcript and translation [CAR-OTP-2107-6999](#) and [CAR-OTP-2107-7148](#); P-2453: [CAR-OTP-2111-0415-R02](#), at 0429, paras.65-66; P-2462: [CAR-OTP-2111-0452-R02](#), at 0460-0461, paras.41-44.

<sup>1074</sup> P-2200: [CAR-OTP-2088-2146-R02](#), at 2155, para.46; P-2049: [CAR-OTP-2088-2173-R02](#), at 2190, paras.91-92; P-1577: [CAR-OTP-2081-0769-R01](#), at 0787; P-2462: [CAR-OTP-2111-0452-R02](#), at 0464, para.59; P-2657: [CAR-OTP-2126-0058-R01](#), at 0064, 0065, 0069, paras.36, 45, 73.

<sup>1075</sup> P-0966: [CAR-OTP-2031-0241-R01](#), at 0252, para.64.

<sup>1076</sup> P-0287: [CAR-OTP-2115-0239-R01](#), at 0265, para.131.

Counts 40 and 41 (rape), and Count 42 (persecution) qualify as the underlying conduct of the war crime of directing attacks against the civilian population.

**Count 31 – Murder (article 7(1)(a))**

**Count 32 – Murder (article 8(2)(c)(i))**

421. In the course of their attack, the BOSSANGO Group killed at least 18 fleeing Muslim civilians, including [REDACTED] and her sons-in-law [REDACTED]; a taxi driver [REDACTED] and his mother, a Peuhl wounded earlier by the Anti-Balaka; [REDACTED].<sup>1077</sup> There was no indication that any of the victims were Seleka, armed, or otherwise engaged in combat.<sup>1078</sup>

**Count 33 - Destruction of the adversary's property (article 8(2)(e)(xii))**

**Count 34 - Pillaging (article 8(2)(e)(v))**

422. After taking control of BOSSANGO, the BOSSANGO Group established checkpoints throughout the town, to racketeer money from the population.<sup>1079</sup> They pillaged everything they could from Muslim houses and shops, including the roofs, doors, and windows. Days into the attack, Muslim houses were also systematically set alight or destroyed, especially in the predominantly Muslim neighbourhoods of BORO, ARABE and FULBE.<sup>1080</sup> The words “Anti-Balaka” were scrawled on destroyed Muslim houses, leaving no doubt as to the perpetrators of the ongoing attack.<sup>1081</sup> Meanwhile,

<sup>1077</sup> **P-2200:** [CAR-OTP-2088-2146-R02](#), at 2155-2156, paras.45-59; **P-2049:** [CAR-OTP-2088-2173-R02](#), at 2189, 2196, paras.81-90, 125; [CAR-OTP-2088-2207](#); **P-2453:** [CAR-OTP-2111-0415-R02](#), at 0429-0430, paras.66-68; **P-2462:** [CAR-OTP-2111-0452-R02](#), at 0463-0464, paras.55-57; **P-1577:** [CAR-OTP-2081-0769-R01](#), at 0788-0790, see pictures [CAR-OTP-2085-3982](#); [CAR-OTP-2085-3892](#); [CAR-OTP-2085-3822](#); [CAR-OTP-2085-3632](#); [CAR-OTP-2085-3572](#); **P-2658:** [CAR-OTP-2126-0012-R01](#), at 0034, para.137; **P-2657:** [CAR-OTP-2126-0058-R01](#), at 0064-0066, 0068-0070, paras.36, 39, 42, 45, 48-49, 68-69, 75, 77; [CAR-OTP-2001-2043](#), at 2055-2056; [CAR-OTP-2032-0028](#), at 0031; [CAR-OTP-2079-1147](#), at 1147.

<sup>1078</sup> See for example **P-2462:** [CAR-OTP-2111-0452-R02](#), at 0460, 0463-0464, paras.43-44, 55-56; **P-2657:** [CAR-OTP-2126-0058-R01](#), at 0064-0066, paras.36, 39, 42, 45, 48; **P-2453:** [CAR-OTP-2111-0415-R02](#), at 0429, para.66.

<sup>1079</sup> **P-0966:** [CAR-OTP-2031-0241-R01](#), at 0252, para.65; [CAR-OTP-2101-3653](#), at 3657; [CAR-OTP-2042-2930](#), from [00:15:00] to [00:19:17] and its transcript and translation [CAR-OTP-2107-3008](#), at 3009, l.3-7 and [CAR-OTP-2118-5629](#), at 5631-5632, l.3-55.

<sup>1080</sup> **P-2200:** [CAR-OTP-2088-2146-R02](#), at 2158, paras.64-65; **P-0314:** [CAR-OTP-2008-1188-R01](#), at 1208, para.99; **P-0287:** [CAR-OTP-2115-0239-R01](#), at 0263-0264, paras.118-119.

<sup>1081</sup> [CAR-OTP-2001-0835](#), at 0886-0889.

predominantly Christian neighbourhoods remained intact.<sup>1082</sup> By the end of January 2014, the Anti-Balaka had destroyed an estimated 1,500 Muslim houses.<sup>1083</sup>

### **Count 35 – Attacks against buildings dedicated to religion (article 8(2)(e)(iv))**

423. In the following weeks, elements of the BOSSANGO Group continued their attack, dismantling and destroying several mosques, including the central mosque of BOSSANGO, leaving Muslims with no place of worship.<sup>1084</sup>

### **Count 37 – Forcible transfer, deportation (article 7(1)(d))**

### **Count 38 – Displacement (article 8(2)(e)(viii))**

424. BOSSANGO's Muslim inhabitants fled the attack and sought refuge at the *École de la Liberté*, a school turned into a refugee camp,<sup>1085</sup> where many Muslims from the surrounding villages fleeing Anti-Balaka violence had already settled in previous weeks.<sup>1086</sup>

<sup>1082</sup> P-2453: [CAR-OTP-2111-0415-R02](#), at 0432, para.81.

<sup>1083</sup> [CAR-OTP-2088-2204](#), from [00:00:00] to [00:12:50] and its transcript and translation [CAR-OTP-2127-6281](#), at 6282-6283, l.3-63 and [CAR-OTP-2127-6408](#), at 6410-6412, l.3-75; [CAR-OTP-2001-2308](#), at 2332; [CAR-OTP-2085-3122](#); [CAR-OTP-2001-5350](#); [CAR-OTP-2079-0667](#); P-2049: [CAR-OTP-2088-2173-R02](#), at 2190-2191, 2195, paras.95-97, 123; P-2453: [CAR-OTP-2111-0415-R02](#), at 0433-0434, paras.83-84, 86-89; P-2133: [CAR-OTP-2093-0267-R01](#), at 0280, para.97; P-1577: [CAR-OTP-2081-0769-R01](#), at 0789; P-2462: [CAR-OTP-2111-0452-R02](#), at 0466-0467, para.73; [CAR-OTP-2005-0197](#), at 0197, 0199; [CAR-OTP-2079-0668](#), at 0669; [CAR-OTP-2079-1147](#), at 1147. For pictures and satellite imagery: see [CAR-OTP-2085-3122](#); [CAR-OTP-2079-1151](#); [CAR-OTP-2079-1153](#); [CAR-OTP-2079-0671](#).

<sup>1084</sup> P-2200: [CAR-OTP-2088-2146-R02](#), at 2158, para.67; P-2049: [CAR-OTP-2088-2173-R02](#), at 2191, 2195, paras.99, 123; P-2453: [CAR-OTP-2111-0415-R02](#), at 0432-0433, paras.82, 85; [CAR-OTP-2088-2204](#), from [00:03:42] to [00:04:30] and its transcript and translation [CAR-OTP-2127-6281](#), at 6282, l.8-13 and [CAR-OTP-2127-6408](#), at 6410, l.14-18; P-2462: [CAR-OTP-2111-0452-R02](#), at 0467, para.74; [CAR-OTP-2108-1031](#) from [00:00:00] to [00:00:36] and its transcript and translation [CAR-OTP-2122-9637](#) and [CAR-OTP-2122-9703](#); P-2377: [CAR-OTP-2108-0609-R01](#), at 0625, para.69; P-2652: [CAR-OTP-2126-0175-R01](#), at 0188, para.70.

<sup>1085</sup> P-2200: [CAR-OTP-2088-2146-R02](#), at 2155, 2158, paras.44, 64; P-2049: [CAR-OTP-2088-2173-R02](#), at 2188, paras.77-78; [CAR-OTP-2088-0731](#); P-2462: [CAR-OTP-2111-0452-R02](#), at 0460, para.42. See also [CAR-OTP-2081-0973](#), from [00:02:39] to [00:02:54] and its transcript and translation [CAR-OTP-2122-9214](#), at 9216, l.52-58 and [CAR-OTP-2122-9226](#), at 9229, l.52-58; P-2658: [CAR-OTP-2126-0012-R01](#), at 0033, paras.133, 135; [CAR-OTP-2127-6617](#), at 6620, 6622; [CAR-OTP-2127-6626](#), at 6629 (inset 2); P-2657: [CAR-OTP-2126-0058-R01](#), at 0069-0070, paras.74, 79. For pictures: see [CAR-OTP-2085-5082](#), [CAR-OTP-2085-5092](#) – see commentary provided by P-1577: [CAR-OTP-2081-0769-R01](#), at 0787.

<sup>1086</sup> P-1576: [CAR-OTP-2060-0280-R01](#), at 0282, para.15; P-0314: [CAR-OTP-2008-1188-R01](#), at 1206, paras.85-86; P-2453: [CAR-OTP-2111-0415-R02](#), at 0425, para.48; P-2462: [CAR-OTP-2111-0452-R02](#), at 0456, para.23; [CAR-OTP-2005-0197](#), at 0205; P-2658: [CAR-OTP-2126-0012-R01](#), at 0033, paras.133-134; P-2657: [CAR-OTP-2126-0058-R01](#), at 0063, 0070, paras.25-26, 79; P-2652: [CAR-OTP-2126-0175-R01](#), at 0181, 0183, paras.35, 42, 43; P-0505: [CAR-OTP-2014-0129-R01](#), at 0133-0134, paras.24, 29; P-2467: [CAR-OTP-2109-0520-R01](#), at 0525, paras.23-24; [CAR-OTP-2081-0496](#), at 0540.

425. The number of displaced Muslims rose to thousands, and by the end of December 2013, the *École de la Liberté* sheltered over 7,000, mostly women and children from the Muslim neighbourhood of BORO.<sup>1087</sup> Some of them had been forcibly taken by the Anti-Balaka from their homes to the *École de la Liberté* site so that they could be removed from the town by international forces, which they later were.<sup>1088</sup>

426. By April 2014, virtually the entire Muslim population remaining in BOSSANGOA had been evacuated, mainly to CHAD.<sup>1089</sup>

### Count 39 – Severe deprivation of physical liberty (article 7(1)(e))

427. While the Muslims were protected by international forces inside the *École de la Liberté*, they could not leave it for fear of being killed by the Anti-Balaka.<sup>1090</sup> For instance, some weeks after the Anti-Balaka overran the town, the body of displaced Muslim [REDACTED] was found hacked by a machete two days after leaving the camp to check

<sup>1087</sup> P-2602: [CAR-OTP-2118-9705-R01](#), at 9708, l.79-102; P-2049: [CAR-OTP-2088-2173-R02](#), at 2193, para.111; P-1577: [CAR-OTP-2085-4492](#), [CAR-OTP-2085-4502](#), [CAR-OTP-2085-4512](#), [CAR-OTP-2085-4552](#), [CAR-OTP-2085-4562](#), [CAR-OTP-2085-4572](#) – see commentary provided by P-1577 : [CAR-OTP-2081-0769-R01](#), at 0791; P-2462: [CAR-OTP-2111-0452-R02](#), at 0468, para.82; [CAR-OTP-2127-4059](#), at 4060; [CAR-OTP-2127-4124](#), at 4127; [CAR-OTP-2079-1141](#), at 1141; [CAR-OTP-2006-1218](#), at 1220; [CAR-OTP-2049-0261](#), at 0262; [CAR-OTP-2079-1163](#), at 1163; [CAR-OTP-2079-0677](#), from [00:00:51] to [00:01:16] [transcript and translation pending with LSU]; [CAR-OTP-2081-0973](#), from [00:02:50] to [00:03:04] and its transcript and translation [CAR-OTP-2122-9214](#), at 9216, l.57-65 and [CAR-OTP-2122-9226](#), at 9229, l.57-65; P-2652: [CAR-OTP-2126-0175-R01](#), at 0187, para.65.

<sup>1088</sup> P-0966: [CAR-OTP-2031-0241-R01](#), at 0252, para.63.

<sup>1089</sup> P-2200: [CAR-OTP-2088-2146-R02](#), at 2160, paras.76-80; P-2049: [CAR-OTP-2088-2173-R02](#), at 2194, paras.115-116; P-2462: [CAR-OTP-2111-0452-R02](#), at 0468-0469, paras.83-85; P-2453: [CAR-OTP-2111-0415-R02](#), at 0435, paras.95-99; P-0287: [CAR-OTP-2115-0239-R01](#), at 0264, para.120; P-0567: [CAR-OTP-2059-0084-R02](#), at 0096, para.76; P-2658: [CAR-OTP-2126-0012-R01](#), at 0035-0036, paras.151,153-154; P-2657: [CAR-OTP-2126-0058-R01](#), at 0072-0073, paras.96, 97-100; P-2652: [CAR-OTP-2126-0175-R01](#), at 0189, para.77; [CAR-OTP-2001-2885](#), at 2885; [CAR-OTP-2079-1144](#), at 1144; P-1231: [CAR-OTP-2031-0157](#), at 0158; [CAR-OTP-2079-1154](#), at 1154; [CAR-OTP-2001-1057](#), at 1059, para.10; [CAR-OTP-2001-4383](#), at 4383; P-2133: [CAR-OTP-2093-0267-R01](#), at 0280-0281, paras.98-99; P-0314: [CAR-OTP-2008-1188-R01](#), at 1207-1208, paras.93-98; P-1074: [CAR-OTP-2094-0228-R02](#), at 0254, para.154; P-2328: [CAR-OTP-2099-0165-R01](#), at 0207, para.226; [CAR-OTP-2101-1682](#); [CAR-OTP-2101-4056](#), at 0456; [CAR-OTP-2081-0602](#), from [00:00:54] to [00:00:55] and its transcript [CAR-OTP-2081-0603](#), at 0625; [CAR-OTP-2023-1844](#), from [00:00:00] to [00:03:42] and its transcript [CAR-OTP-2122-9398](#), at 9399-9400, l.5-55.

<sup>1090</sup> P-2200: [CAR-OTP-2088-2146-R02](#), at 2159, paras.72-73; P-1577: [CAR-OTP-2081-0769-R01](#), at 0791; P-2652: [CAR-OTP-2126-0175-R01](#), at 0187-0188, para.66; [CAR-OTP-2079-1141](#), at 1141; [CAR-OTP-2079-1159](#), at 1159; [CAR-OTP-2079-0678](#), at 0678; [CAR-OTP-2001-2885](#), at 2885.

on his house.<sup>1091</sup> Even from within the camp there was insecurity, as the Anti-Balaka would sometimes pass by the school shouting threats towards the families inside.<sup>1092</sup>

**Count 40 – Rape (article 7(1)(g))**

**Count 41 – Rape (article 8(2)(e)(vi))**

428. Elements of the BOSSANGO Group raped a [REDACTED] Muslim woman during the course of the attack on 5 December 2013. [REDACTED] while attempting to flee to the local imam's compound, along with others. [REDACTED].<sup>1093</sup> [REDACTED].<sup>1094</sup> [REDACTED].<sup>1095</sup>

**Count 42 – Persecution (article 7(1)(h))**

429. All of these crimes and acts were committed by the BOSSANGO Group and other Anti-Balaka elements in a coordinated effort to cleanse BOSSANGO of its Muslim population. That effort demonstrates the Common Purpose and Criminal Policy as implemented by the BOSSANGO Group, its leadership, and Anti-Balaka elements under the National Coordination.<sup>1096</sup>

430. The Anti-Balaka's attack on thousands of Muslim civilians at BOSSANGO severely deprived them of fundamental rights, including to life, liberty, mental and bodily integrity, dignity, and religious freedom. Their attack comprised of the pillaging and destruction of Muslim property, communities, and places of worship; the expulsion of Muslims; restriction of their liberty; and the commission of numerous crimes of violence, including sexual violence.<sup>1097</sup> Among these, the reported capture and rape of a second Muslim woman, [REDACTED] during the course of the 5 December 2013 BOSSANGO

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<sup>1091</sup> **P-2049:** [CAR-OTP-2088-2173-R02](#), at 2193, para.112; **P-2462:** [CAR-OTP-2111-0452-R02](#), at 0465, paras.61-62; **P-2453:** [CAR-OTP-2111-0415-R02](#), at 0434, paras.93-94; **P-2658:** [CAR-OTP-2126-0012-R01](#), at 0034-0036, paras.144, 153.

<sup>1092</sup> [CAR-OTP-2079-1170](#), at 1170.

<sup>1093</sup> [REDACTED].

<sup>1094</sup> [REDACTED].

<sup>1095</sup> [REDACTED].

<sup>1096</sup> See above, para.167.

<sup>1097</sup> See above, paras.419-428.

attack, while she was attempting to flee to safety at the local imam's compound.<sup>1098</sup>  
[REDACTED].<sup>1099</sup>

c) *Direct perpetrators of the crimes*

431. As mentioned, the BOSSANGO attack was executed by a group of Anti-Balaka under the leadership of the ComZone FACA *Caporal* KEMA,<sup>1100</sup> and deputies DANGBA and MANDAGO.<sup>1101</sup> Previously among the GOBERE group which NGAISSONA and Bernard MOKOM supported, all three were present in BOSSANGO during the attack, as CDR confirm.<sup>1102</sup> The BOSSANGO Group also included several other members of BOZIZE's PG such as a certain 'Charlie'.<sup>1103</sup>

432. The intent and knowledge of the direct perpetrators is shown by the crimes they led and committed, and the statements they and their subordinates made.<sup>1104</sup> Their crimes were committed in furtherance of the BOSSANGO Group's leaders' violent and protracted

<sup>1098</sup> See Confirmation Decision, p.107, 111 (specifically incorporating in the operative part of the Confirmation Decision the factual allegations "as set out in paragraphs [...] 376-388 of the DCC" in substantiation of the crimes of directing attacks against the civilian population and persecution). Paragraph 386 of the DCC provides: "[a] second victim raped by Anti-Balaka elements during the 5 December 2013 attack on BOSSANGO also reported the crime"; [REDACTED].

<sup>1099</sup> [REDACTED].

<sup>1100</sup> **P-0966:** [CAR-OTP-2031-0241-R01](#), at 0251-0252, paras.59, 61, 63, 65; **P-1521:** [CAR-OTP-2046-0603-R01](#), at 0609, para.35; [CAR-OTP-2046-0631](#), at 0631; **P-1847:** [CAR-OTP-2061-1534-R01](#), at 1558, para.151; [CAR-OTP-2001-5365](#); [CAR-OTP-2019-1383](#), at 1386; **P-1521:** [CAR-OTP-2046-0603-R01](#), at 0609, para.35; **P-0314:** [CAR-OTP-2008-1188-R01](#), at 1208-1209, paras.100-101; **P-2232:** [CAR-OTP-2090-0561-R03](#), at 0574, para.84; **P-0884:** [CAR-OTP-2080-1678-R01](#), at 1703, l.854-872; **P-2453:** [CAR-OTP-2111-0415-R02](#), at 0431, para.75; **P-0287:** [CAR-OTP-2115-0239-R01](#), at 0264-0265, paras.125, 127; **P-2269:** [CAR-OTP-2111-0336-R01](#), at 0354, para.135.

<sup>1101</sup> **P-0966:** [CAR-OTP-2031-0241-R01](#), at 0247, 0251, paras.36, 61; [CAR-OTP-2001-5365](#); **P-2049:** [CAR-OTP-2088-2173-R02](#), at 2192, para.103; [CAR-OTP-2001-0835](#), at 0886; [CAR-OTP-2030-0232](#), at 0234, 0238; **P-1521:** [CAR-OTP-2046-0603-R01](#), at 0609, para.35; **P-0314:** [CAR-OTP-2008-1188-R01](#), at 1209, para.103; [CAR-OTP-2001-0835](#), at 0886.

<sup>1102</sup> See above, paras.91-95; **P-2602:** [CAR-OTP-2118-9560-R01](#), at 9573-9573, l.420-481, and at 9578, l.592-620; [CAR-OTP-2118-9579-R01](#), at 9580, l.7-28. CDR show KEMA ([REDACTED]), DANGBA ([REDACTED]) and MANDAGO ([REDACTED]) communicated from the Cell Site in BOSSANGO on 5 December 2013: [CAR-OTP-2068-0033](#); [CAR-OTP-2054-1480](#). [REDACTED]; [CAR-OTP-2082-1026-R01](#), at 1030. [REDACTED]. For the attributions of the relevant telephone numbers, see Annex D.

<sup>1103</sup> **P-0458:** [CAR-OTP-2118-2586-R01](#), at 2595-2596, l.275-328, [CAR-OTP-2118-5185-R01](#), at 5204-5209, l.625-793; **P-2200:** [CAR-OTP-2088-2146-R02](#), at 2162, para.88; **P-0314:** [CAR-OTP-2008-1188-R01](#), at 1209, para.101; **P-2049:** [CAR-OTP-2088-2173-R02](#), at 2192, para.102; **P-2462:** [CAR-OTP-2111-0452-R02](#), at 0467, para.77; **P-2453:** [CAR-OTP-2111-0415-R02](#), at 0420-0426, 0430-0431, paras.26, 52, 73-74; **P-2602:** [CAR-OTP-2118-9683-R01](#), at 9688-9689, l.168-186.

<sup>1104</sup> **P-0966:** [CAR-OTP-2031-0241-R01](#), at 0252, para.64; **P-0287:** [CAR-OTP-2115-0239-R01](#), at 0265, para.131. See also [CAR-OTP-2066-5308](#), from [00:01:50] to [00:03:31] and its transcript and its translation [CAR-OTP-2107-6935](#), at 6937-6938, l.63-108 and [CAR-OTP-2122-2307](#), at 2310-2312, l.63-110; [CAR-OTP-2085-2953](#), from [00:06:50] to [00:12:00] and its transcript and translation [CAR-OTP-2107-6989](#), at 6995-6997, l.173-243, and [CAR-OTP-2122-2371](#), at 2378-2380, l.173-243.

attack on the town's Muslim population pursuant to the Common Purpose and the Criminal Policy.

d) *The de facto coordination was involved with the BOSSANGO group*

**i. From September 2013 (at the latest) the BOSSANGO Group was in contact with the *de facto* Coordination**

433. The BOSSANGO Group was engaged with the *de facto* Coordination.

434. *First*, CDR establish that KEMA was in contact with MOKOM on numerous occasions during earlier Anti-Balaka attacks around BOSSANGO in September 2013.<sup>1105</sup> Witnesses confirm contacts between MOKOM and KEMA, [REDACTED], and MANDAGO, while MOKOM was in ZONGO<sup>1106</sup> (*i.e.* before 6 February 2014).<sup>1107</sup> CDR further establish that KEMA maintained contact with MOKOM between October 2013 and March 2014.<sup>1108</sup>

435. *Second*, CDR show several contacts between KEMA and **NGAISSONA** on 17 January 2014 (*i.e.* only three days after **NGAISSONA**'s return to BANGUI).<sup>1109</sup> They also show additional contact between the two later in January, February, September and October 2014.<sup>1110</sup>

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<sup>1105</sup> CDR show KEMA ([REDACTED]) communicated with MOKOM ([REDACTED]) approximately 30 times throughout September 2013: [CAR-OTP-2054-1479](#). For the attributions of the relevant telephone numbers, see Annex D. Regarding the attacks around BOSSANGO in September 2013: *see above*, para.418.

<sup>1106</sup> **P-1172**: [CAR-OTP-2082-1058-R03](#), at 1064, para.33; **P-0889**: [CAR-OTP-2027-2290-R01](#), at 2295, para.34; **P-0884**: [CAR-OTP-2072-1541-R01](#), at 1559, l.613-652; **P-1521**: [CAR-OTP-2046-0603-R01](#), at 0610, para.43.

<sup>1107</sup> *See above*, para.126.

<sup>1108</sup> CDR show KEMA ([REDACTED]) communicated with MOKOM ([REDACTED]) over 350 times between October 2013 and March 2014: [CAR-OTP-2019-2839](#); [CAR-OTP-2019-1364](#); [CAR-OTP-2054-1480](#); [CAR-OTP-2054-1481](#); [CAR-OTP-2068-0033](#); [CAR-OTP-2068-0034](#); [CAR-OTP-2054-1479](#); [CAR-OTP-2054-1482](#). For the attributions of the relevant telephone numbers, see Annex D.

<sup>1109</sup> On 14 January 2014, *see* **P-0808**: [CAR-OTP-2025-0324-R03](#), at 0336, para.82; [CAR-OTP-2003-1076](#), at 1086.

<sup>1110</sup> CDR show **NGAISSONA** ([REDACTED]) communicated with KEMA ([REDACTED]) in January (including three times on 17 January 2014), February, September and October 2014: [CAR-OTP-2089-1771](#); [CAR-OTP-2054-1484](#); [CAR-OTP-2068-0034](#); [CAR-OTP-2008-0483](#). For the attributions of the relevant telephone numbers, *see* Annex D.

**ii. KEMA received instructions and directions from the *de facto* Coordination**

436. KEMA was close to MOKOM,<sup>1111</sup> who strategised the 5 December 2013 BOSSANGO attack with local Anti-Balaka leaders, and also then sent money and ammunition to carry it out.<sup>1112</sup> A member of the BOSSANGO Group explicitly said that the attack was launched a day earlier than planned (Thursday, 5 December 2013 instead of Friday), after being informed by their “*chiefs, in Bangui*” of the attack on BANGUI.<sup>1113</sup> Likewise, KEMA openly acknowledged falling under **NGAISSONA**’s authority,<sup>1114</sup> from whom he received instructions.<sup>1115</sup> Another member of the BOSSANGO Group described **NGAISSONA** as “their big Chef” during the attack.<sup>1116</sup>

**e) Knowledge and intent of **NGAISSONA****

437. As a leader in the *de facto* Coordination and participant in the planning of the Anti-Balaka’s 5 December 2013 offensive, **NGAISSONA** was fully aware of the group’s operations in BOSSANGO and its surroundings. The 5 December 2013 attacks on BANGUI and BOSSANGO were not random – the *de facto* Coordination, including MOKOM, played a key role in their preparation and planning.<sup>1117</sup> KEMA, one of the leaders of the attack received instructions, including through **NGAISSONA** and Bernard MOKOM.<sup>1118</sup> KEMA acknowledged falling under **NGAISSONA**’s authority.<sup>1119</sup>

438. Members of the *de facto* Coordination were apprised in the following ways of the crisis from the initial attack on 5 December 2013 and throughout the forced enclaving of Muslim civilians until at least April 2014.

439. *First*, in addition to the frequent telephone contacts between the BOSSANGO Group and the *de facto* Coordination, CDR further establish KEMA’s contact with

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<sup>1111</sup> [REDACTED].

<sup>1112</sup> **P-2232**: [CAR-OTP-2090-0561-R03](#), at 0571, 0575, paras.68, 70, 89-90; **P-2269**: [CAR-OTP-2111-0336-R01](#), at 0345, paras.68-69; **P-2602**: [CAR-OTP-2118-9714-R01](#), at 9716, l.55-68, at 9719, l.148-162.

<sup>1113</sup> [REDACTED].

<sup>1114</sup> **P-0287**: [CAR-OTP-2115-0239-R01](#), at 0265, para.130.

<sup>1115</sup> **P-1847**: [CAR-OTP-2061-1534-R01](#), at 1552-1553, 1558, paras.118, 121, 152.

<sup>1116</sup> **P-2657**: [CAR-OTP-2126-0058-R01](#), at 0073, para.102.

<sup>1117</sup> See above, paras.411-414.

<sup>1118</sup> **P-1847**: [CAR-OTP-2061-1534-R01](#), at 1552-1553, 1558, paras.118, 121, 152.

<sup>1119</sup> **P-0287**: [CAR-OTP-2115-0239-R01](#), at 0265, para.130. See also **P-0992**: [CAR-OTP-2110-0048-R01](#) at 0070, para.134.

MOKOM in the period around the militarised attack — from 1 to 10 December 2013. On 5 December 2013, KEMA and MOKOM were in contact just before 12h00,<sup>1120</sup> prior to the 13h00 to 17h00 timing of the attack estimated by an Anti-Balaka participant.<sup>1121</sup> CDR also put KEMA [REDACTED] in contact between 13h00 and 14h20, at the beginning of the attack.<sup>1122</sup>

440. *Second*, **NGAISSONA** knew about the prevailing situation in BOSSANGOA through other means. **NGAISSONA** and MOKOM were directly informed by people present in BOSSANGOA about events.<sup>1123</sup> He and MOKOM sent missions there and MOKOM also visited the area himself.<sup>1124</sup>

441. *Third*, KEMA [REDACTED] attended meetings at the National Coordination in BANGUI,<sup>1125</sup> while Muslim civilians were still forcibly enclaved at the *École de la Liberté* under threat and subject to deplorable conditions.

442. *Fourth*, the Anti-Balaka violence in BOSSANGOA was also heavily covered by national and international media, since September 2013.<sup>1126</sup> Their taking of the city was posted on the Anti-Balaka's Facebook account in January 2014.<sup>1127</sup> This confirms that the Anti-Balaka *de facto* Coordination and National Coordination had knowledge of Anti-Balaka activities on the ground throughout western CAR, including in BOSSANGOA.

443. As a key member of both, **NGAISSONA** was aware of the unlawful conduct of the BOSSANGOA Group and other Anti-Balaka elements that displaced Muslims and forced

<sup>1120</sup> CDR show MOKOM's ([REDACTED]) contacts with KEMA ([REDACTED]) on 5 December 2013 between 11:49 and 11:52: [CAR-OTP-2054-1480](#); [CAR-OTP-2068-0033](#). For the attributions of the relevant telephone numbers, see Annex D.

<sup>1121</sup> **P-0966**: [CAR-OTP-2031-0241-R01](#), at 0251, para.60.

<sup>1122</sup> CDR show KEMA ([REDACTED]) communicated with [REDACTED] on 5 December 2013 between 13:50 and 14:20: [CAR-OTP-2068-0033](#). For the attributions of the relevant telephone numbers, see Annex D.

<sup>1123</sup> **P-1847**: [CAR-OTP-2061-1534-R01](#), at 1552-1553, paras.118, 121; **P-1172**: [CAR-OTP-2082-1058-R03](#), at 1063, para.29; **P-0966**: [CAR-OTP-2031-0241-R01](#), at 0256, para.88; **P-0627**: [CAR-OTP-2102-1506-R02](#), at 1519-1520, 1.443-463.

<sup>1124</sup> **P-1858**: [CAR-OTP-2063-0050-R01](#), at 0067-0068, paras.105, 112; **P-0808**: [CAR-OTP-2093-0010-R01](#), at 0026, paras.87-90; **P-2328**: [CAR-OTP-2099-0165-R01](#), at 0193-0194, para.149.

<sup>1125</sup> **P-2232**: [CAR-OTP-2090-0561-R03](#), at 0574, 0577-0580, 0582, paras.86, 102-147, 159-164, [CAR-OTP-2100-2569-R01](#), at 2580-2581, 2588-2589, paras.60-62, 108-111, 113; **P-1042**: [CAR-OTP-2107-0591-R01](#), at 0608, 1.546-577; **P-1847**: [CAR-OTP-2061-1534-R01](#), at 1565-1566, paras.197-199, 202.

<sup>1126</sup> [CAR-OTP-2079-1940](#); [CAR-OTP-2082-0787](#); [CAR-OTP-2079-0622](#); [CAR-OTP-2082-0793](#); [CAR-OTP-2079-1163](#); [CAR-OTP-2001-4550](#); [CAR-OTP-2001-4082](#); [CAR-OTP-2042-5196](#); [CAR-OTP-2079-1166](#); [CAR-OTP-2079-1147](#); [CAR-OTP-2079-1144](#); [CAR-OTP-2079-0677](#), from [00:00:00] to [00:01:29] [Transcript and Translation Request pending with LSU]; [CAR-OTP-2079-0668](#).

<sup>1127</sup> [CAR-OTP-2066-5201](#), at 5206.

them to endure deplorable circumstances in an enclave. **NGAISSONA** did nothing to prevent KEMA's crimes, knowing that they would occur in the ordinary course of events. And, with clear knowledge of the crimes committed by the BOSSANGO Group, instead of condemning their conduct, acting to end the continued subjugation of Muslims by elements under KEMA, or end the Anti-Balaka's siege of the Muslim community, **NGAISSONA** condoned KEMA's conduct, accepting his continued membership in the Anti-Balaka, and later inviting him to participate in the July 2014 BRAZZAVILLE Summit as an Anti-Balaka representative<sup>1128</sup> recognising him as the Anti-Balaka ComZone for BOSSANGO in December 2014 and as Regional coordinator of OUHAM province.<sup>1129</sup> This subsequent conduct shows that **NGAISSONA**'s earlier acts and omissions were *intended* to facilitate or otherwise contribute to the commission of the types of crimes that KEMA and his Group committed.<sup>1130</sup>

### C. YAMWARA School Base (BOEING)

#### a) General

444. **YEKATOM** established the YAMWARA School Base in BOEING after the 5 December 2013 Attack.<sup>1131</sup> **YEKATOM** housed and trained his elements at the YAWARA

<sup>1128</sup> [CAR-OTP-2001-6924](#), at 6926; **P-0314**: [CAR-OTP-2008-1188-R01](#), at 1209, para.104; **P-2269**: [CAR-OTP-2111-0336-R01](#), at 0356-0357, para.154. See also **P-0808**: [CAR-OTP-2093-0010-R01](#), at 0028, paras.103-104.

<sup>1129</sup> [CAR-OTP-2030-0445](#), at 0447; **P-0287**: [CAR-OTP-2115-0239-R01](#), at 0265, paras.130-131.

<sup>1130</sup> [Bemba, et al AJ](#), para.1306 ("The Appeals Chamber recalls that there is no bar to a trial chamber using evidence to infer, either backwards or forward in time ... [there is no] overarching rule prohibiting the use of subsequent evidence to infer that an accused is involved in a common plan at an earlier point in time"); [Bemba, et al TJ](#), para.410 (relating to *post factum* conduct), para.735 *et seq.*, and para.800 (noting, in the context of an *ex post facto* cover-up, the relevance and probative value of such evidence as follows: "... the above-mentioned intercepts prove that the three co-perpetrators clearly intended to take measures to conceal their *prior activities*. The discussions are therefore revealing with regard to the co-perpetrators' *earlier activities*") (emphasis added). See also *Prosecutor v. Popović, et al*, Judgement, Case No. IT-05-88-T, 10 June 2010, para.1067 ("[t]he Trial Chamber notes that the reburial operation, which took place during September and October 1995, is corroborative of the Trial Chamber's finding that the mass executions following the fall of Srebrenica [July 1995] were planned and organised as part of a wide scale, premeditated killing operation").

<sup>1131</sup> See above, para.361.

School Base,<sup>1132</sup> and used it as a place to [REDACTED], including, but not limited to,<sup>1133</sup> the crimes described below.

b) *Crimes committed*

**Count 11 – Inhumane acts (article 7(1)(k))**

**Count 12 – Torture (article 7(1)(f))**

**Count 13 – Cruel treatment and torture (article 8(2)(c)(i))**

**Count 14 – Imprisonment and other forms of severe deprivation of physical liberty (article 7(1)(e))**

**Count 15 – Murder (article 7(1)(a))**

**Count 16 – Murder (article 8(2)(c)(i))**

445. [REDACTED].<sup>1134</sup>

446. [REDACTED]. [REDACTED],<sup>1135</sup> [REDACTED].<sup>1136</sup> [REDACTED].<sup>1137</sup>

447. [REDACTED].<sup>1138</sup> [REDACTED],<sup>1139</sup> [REDACTED].<sup>1140</sup> [REDACTED].<sup>1141</sup>  
[REDACTED].<sup>1142</sup> [REDACTED].<sup>1143</sup>

448. [REDACTED].<sup>1144</sup> [REDACTED].<sup>1145</sup>

<sup>1132</sup> See above, para.361; see e.g. [CAR-OTP-2117-1141](#), at 1141; [CAR-OTP-2117-1142](#), at 1142; [CAR-OTP-2117-1143](#), at 1143; [CAR-OTP-2117-1144](#), at 1144; [CAR-OTP-2117-1145](#), at 1145; [CAR-OTP-2117-1146](#), at 1146; [CAR-OTP-2117-1147](#), at 1147; [CAR-OTP-2117-1148](#), at 1148; [CAR-OTP-2117-1149](#), at 1149; [CAR-OTP-2117-1150](#), at 1150; [CAR-OTP-2117-1151](#), at 1151; [CAR-OTP-2117-1152](#), at 1152; [CAR-OTP-2117-1153](#), at 1153; [CAR-OTP-2117-1154](#), at 1154; [CAR-OTP-2117-1155](#), at 1155; [CAR-OTP-2117-1156](#), at 1156; [CAR-OTP-2117-1157](#), at 1157; [CAR-OTP-2117-1158](#), at 1158; [CAR-OTP-2117-1159](#), at 1159.

<sup>1133</sup> **P-1839:** [CAR-OTP-2122-6617-R01](#) at 6618, l.024-036, and 6628-6629, l.367-412; **P-1490:** [CAR-OTP-2121-2788-R01](#), at 2795-2796, paras.64-69; **P-2233:** [CAR-OTP-2118-5817-R01](#), at 5825-5826, l.242-280, **P-2233:** [CAR-OTP-2118-5848-R01](#), at 5856-5867, l.265-627; **P-2675:** [CAR-OTP-2126-0231-R01](#), at 0238-0239, paras.29-31; [CAR-OTP-2065-3843](#), from [00:00:00] to [00:01:17] and its translation [CAR-OTP-2118-5668](#), at 5670-5671, l.6-60; [CAR-OTP-2065-3893](#) from [00:00:00] to [00:01:20], and its transcript and translation, [CAR-OTP-2127-3763](#), and [CAR-OTP-2127-3683](#), at 3685, l.4-24.

<sup>1134</sup> [REDACTED].

<sup>1135</sup> [REDACTED].

<sup>1136</sup> [REDACTED].

<sup>1137</sup> [REDACTED].

<sup>1138</sup> [REDACTED].

<sup>1139</sup> [REDACTED].

<sup>1140</sup> [REDACTED].

<sup>1141</sup> [REDACTED].

<sup>1142</sup> [REDACTED].

<sup>1143</sup> [REDACTED].

<sup>1144</sup> [REDACTED].

<sup>1145</sup> [REDACTED].

449. [REDACTED].<sup>1146</sup> [REDACTED]<sup>1147</sup> [REDACTED].<sup>1148</sup>

### Count 17 – Persecution (article 7(1)(h))

450. The crimes and acts described above were committed by YEKATOM, YEKATOM's Group, and other Anti-Balaka elements, in a coordinated effort to target the Muslim population. That effort demonstrates the Common Purpose and Criminal Policy as implemented by YEKATOM's Group, its leadership, and other elements under the *de facto* Coordination.

451. The attack on, beating, torture, and murder of civilians on the basis of their association with Muslims severely deprived the victims of fundamental rights. These include the rights to life, liberty, mental and bodily integrity, dignity, and religious freedom.

#### c) *Direct perpetrators of the crimes*

452. **YEKATOM** and his elements committed the crimes against [REDACTED]. **YEKATOM** failed to honour his duty as a FACA officer to protect these Muslim civilians and associates while they were in his custody and control, and instead contributed to the violent crimes against them.

453. *First*, the Charged Crimes took place at the YAMWARA School Base.<sup>1149</sup>

454. *Second*, **YEKATOM** ordered the commission of the crimes. As stated above, [REDACTED].<sup>1150</sup>

455. *Third*, **YEKATOM** was present and personally witnessed the Charged Crimes being executed by his subordinates.<sup>1151</sup> [REDACTED].<sup>1152</sup>

#### d) *Knowledge and intent of YEKATOM*

456. **YEKATOM**'s knowledge and intent is shown by his ordering, endorsement of, and presence during the commission of the crimes. In addition, when an Anti-Balaka

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<sup>1146</sup> [REDACTED].

<sup>1147</sup> [REDACTED].

<sup>1148</sup> [REDACTED].

<sup>1149</sup> See above, paras.445-448.

<sup>1150</sup> See above, paras.447-447.

<sup>1151</sup> See above, paras.445-447.

<sup>1152</sup> See above, para.446.

ComZone asked specifically about this incident, **YEKATOM** bragged “we have removed the skin of the Papaya”,<sup>1153</sup> indicating his involvement in and knowledge of the crime. [REDACTED],<sup>1154</sup> [REDACTED].<sup>1155</sup>

e) *Knowledge and intent of NGAISSONA*

457. **YEKATOM** reported to and coordinated with the Anti-Balaka leadership, including **NGAISSONA**, as he and his Group operated under the *de facto* Coordination and later National Coordination in the Relevant Period.<sup>1156</sup>

458. After the 5 December 2013 Attack, **YEKATOM** continued to meet and coordinate with senior Anti-Balaka leaders, including WENEZOU, MOKOM, KAMEZOLAI, FEISSONA, NGREMANGOU, and other Anti-Balaka commanders.<sup>1157</sup> For example, NGREMANGOU visited the YAMWARA School Base [REDACTED],<sup>1158</sup> and on or around [REDACTED] a group of about 26 Anti-Balaka leaders met there, including WENEZOU, KAMEZOLAI, YEKATOM, and NGREMANGOU.<sup>1159</sup>

459. As **YEKATOM**, among other Anti-Balaka leaders present during the YAMWARA School Base events and thereafter, fell under the *de facto* Coordination, in which **NGAISSONA** held authority, **NGAISSONA** had at least constructive, if not, actual knowledge of the crimes.

460. [REDACTED], the direct perpetrators were in contact with members of the *de facto* Coordination. OUANDJIO personally confirmed to [REDACTED] that YEKATOM’s Group was responsible for [REDACTED], and that [REDACTED].<sup>1160</sup> [REDACTED].<sup>1161</sup>

461. Although certain Anti-Balaka leaders intervened [REDACTED], **NGAISSONA** did nothing to impede **YEKATOM**’s crimes. Nor did he later condemn them, knowing that

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<sup>1153</sup> [REDACTED].

<sup>1154</sup> [REDACTED].

<sup>1155</sup> [REDACTED].

<sup>1156</sup> **P-0487**: [CAR-OTP-2076-0146-R01](#), at 0159, l. 479-481, and 0162, l.585-587; **P-1339**: [CAR-OTP-2041-0741-R01](#), at 0750, para. 65; *see above*, para.324.

<sup>1157</sup> *See above*, paras.413 and 415.

<sup>1158</sup> *See above*, para.415; *see also* [CAR-OTP-2065-4902](#) [00:01:14] to [00:01:24] [transcript and translation request pending with LSU]; [CAR-OTP-2065-4906](#) [00:00:00] to [00:00:10] [transcript and translation request pending with LSU].

<sup>1159</sup> **P-0954**: [CAR-OTP-2048-0171-R02](#), at 0177-0178, paras.41-42.

<sup>1160</sup> [REDACTED].

<sup>1161</sup> [REDACTED].

they would, and indeed had, occurred in the ordinary course of events. Instead, knowing of the crimes, **NGAISSONA** sanctioned their commission by failing to intervene, denounce them, inviting **YEKATOM** to high level meetings, and allowing him to represent the Anti-Balaka<sup>1162</sup>— all demonstrating that **NGAISSONA**'s earlier acts and omissions were *intended* to facilitate or otherwise contribute to the commission of the types of crimes that **YEKATOM** and his Group committed.<sup>1163</sup>

#### D. PK9 – MBAIKI AXIS (LOBAYE PREFECTURE)

##### a) General

462. The LOBAYE Prefecture is one of 16 in CAR.<sup>1164</sup> Located in the southwest part of the country, it borders the Republic of the Congo (“CONGO BRAZZAVILLE”) and the DRC.<sup>1165</sup> Its capital is MBAIKI.<sup>1166</sup> PK9 refers to the area nine kilometres from the centre of BANGUI - a strategic point that has a bridge where checkpoints can easily regulate the flow of traffic on the main route between MBAIKI and BANGUI.<sup>1167</sup>

463. Within a few weeks of the 5 December 2013 BANGUI Attack, on or about 10 January 2014, **YEKATOM** ordered the takeover of the PK9 – MBAIKI axis, an approximately 110 km stretch in the LOBAYE Prefecture.<sup>1168</sup> On or about 11 January

<sup>1162</sup> See above, para.326.

<sup>1163</sup> [Bemba, et al AJ](#), para.1306 (“The Appeals Chamber recalls that there is no bar to a trial chamber using evidence to infer, either backwards or forward in time ... [there is no] overarching rule prohibiting the use of subsequent evidence to infer that an accused is involved in a common plan at an earlier point in time”); [Bemba, et al TJ](#), para.410 (relating to *post factum* conduct), para.735 *et seq.*, and para. 800 (noting, in the context of an *ex post facto* cover-up, the relevance and probative value of such evidence as follows: “... the above-mentioned intercepts prove that the three co-perpetrators clearly intended to take measures to conceal their *prior activities*. The discussions are therefore revealing with regard to the co-perpetrators’ *earlier activities*”) (emphasis added); see also *Prosecutor v. Popović, et al*, Judgement, Case No. IT-05-88-T, 10 June 2010, para.1067. “[t]he Trial Chamber notes that the reburial operation, which took place during September and October 1995, is corroborative of the Trial Chamber’s finding that the mass executions following the fall of Srebrenica [July 1995] were planned and organised as part of a wide scale, premeditated killing operation”).

<sup>1164</sup> [CAR-OTP-2048-0025](#), at 0029.

<sup>1165</sup> [CAR-OTP-2070-0274](#), at 0274; [CAR-OTP-2075-1370](#), at 1370.

<sup>1166</sup> [CAR-OTP-2017-0115](#), at 0122.

<sup>1167</sup> **P-1193**: [CAR-OTP-2039-0018](#); **P-1823**: [CAR-OTP-2063-0369-R01](#), at 0374, para.27; **P-1647**: [CAR-OTP-2050-0654-R02](#), at 0659, para.37; **P-2475**: [CAR-OTP-2110-0556-R03](#), at 0578, para.151.

<sup>1168</sup> **P-0446**: [CAR-OTP-2059-1672-R01](#), at 1690-1692, 1.659-764; **P-1339**: [CAR-OTP-2041-0741-R01](#), at 0756, para.107; **P-1647**: [CAR-OTP-2050-0654-R02](#), at 0660, para.38; **P-1666**: [CAR-OTP-2059-0361-R03](#), at 0367, para.32; **P-1786**: [CAR-OTP-2058-0200-R01](#), at 0207-0208, para.42; **P-1839**: [CAR-OTP-2072-0521-R01](#), at 0528, 1.253-294 and [CAR-OTP-2072-1068-R01](#), at 1085, 1.597-612; **P-1858**: [CAR-OTP-2063-0050-R01](#), at 0063, para.83; **P-2328**: [CAR-OTP-2099-0255](#), at 0255; **P-2233**: [CAR-OTP-2118-5817-R01](#), at 5833, 1.512-515, 877-887; **P-1558**: [CAR-OTP-2105-0195-R01](#), at 0204, para.50.

2014, YEKATOM's Group advanced to the PK9 Bridge,<sup>1169</sup> the entry point to the main road to MBAIKI.<sup>1170</sup>

464. As they advanced toward MBAIKI, YEKATOM's Group took over the following villages:

- SEKIA - strategically located about 6 km west of the PK9 Bridge at the intersection of CAR's central road between BANGUI and MBAIKI and the road between BANGUI and MONGOUMBA.<sup>1171</sup>
- NDANGALA - located about 5 km west of SEKIA.<sup>1172</sup>
- BIMON - located about 12 km west of NDANGALA.<sup>1173</sup>
- KAPOU - located about 3 km southwest of BIMON.<sup>1174</sup>
- BOSSONGO - located about 1 km southwest of KAPOU.<sup>1175</sup>
- PISSA - located about 14 km southwest of BOSSONGO.<sup>1176</sup>

<sup>1169</sup> **P-0954:** [CAR-OTP-2048-0171-R02](#), at 0180 and 0186, paras.52 and 89; **P-1647:** [CAR-OTP-2050-0654-R02](#), at 0659, para.37; **P-1847:** [CAR-OTP-2061-1534-R01](#), at 1564, para.190; [CAR-OTP-2055-2610](#), from [00:01:14] to [00:03:04] and its transcript and translation, [CAR-OTP-2107-6906](#), at 6909-6910, l.39-99, and [CAR-OTP-2122-2271](#), at 2275-2276, l.39-99; [CAR-OTP-2065-3412](#), from [00:00:00] to [00:02:51] and its transcript and translation, [CAR-OTP-2118-0005](#) and [CAR-OTP-2125-0470](#), at 0472-0473, l.1-53; [CAR-OTP-2065-3889](#), from [00:00:00] to [00:01:11] and its transcript and translation [CAR-OTP-2127-3761](#), at 3762, l.4-6 and [CAR-OTP-2127-3680](#), at 3682, l.4-14.

<sup>1170</sup> **P-1193:** [CAR-OTP-2039-0018](#); **P-1974:** [CAR-OTP-2068-0222-R02](#), at 0226, para.26; **P-2353:** [CAR-OTP-2100-0226-R01](#), at 0234, para.49.

<sup>1171</sup> **P-0954:** [CAR-OTP-2048-0171-R02](#), at 0184-0185, para.79; **P-1647:** [CAR-OTP-2050-0654-R02](#), at 0659-0660, paras.37-39; **P-1839:** [CAR-OTP-2072-0521-R01](#), at 0528, l.272-297; [REDACTED]; **P-1558:** [CAR-OTP-2105-0195-R01](#), at 0207, paras.76-79; [CAR-OTP-2094-7618](#) from [00:09:45] to [00:11:50] and its transcript and translation [CAR-OTP-2118-4284](#), at 4288, l.125-130 and [CAR-OTP-2118-4260](#), at 4266-4267, l.183-214.

<sup>1172</sup> **P-0954:** [CAR-OTP-2048-0171-R02](#), at 0184-0185, para.79; **P-1647:** [CAR-OTP-2050-0654-R02](#), at 0660, para.39.

<sup>1173</sup> **P-1647:** [CAR-OTP-2050-0654-R02](#), at 0660, para.39; **P-2419:** [CAR-OTP-2112-0036-R01](#), at 0043, 0047-0048, 0051, paras.36, 63-65, 85; **P-2388:** [CAR-OTP-2108-0003-R01](#), at 0013-0014, paras.63, 65, 67-70; [CAR-OTP-2053-0567](#); [CAR-OTP-2045-0525](#).

<sup>1174</sup> **P-0954:** [CAR-OTP-2048-0171-R02](#), at 0184-0185, para.79; **P-1647:** [CAR-OTP-2050-0654-R02](#), at 0660, para.39; **P-1558:** [CAR-OTP-2105-0195-R01](#), at 0207, paras.81-83; [CAR-OTP-2094-7618](#) from [00:12:01] to [00:12:37] and its transcript and translation [CAR-OTP-2118-4284](#), at 4288, l.130-137 and [CAR-OTP-2118-4260](#), at 4267, l.210-214.

<sup>1175</sup> **P-1839:** [CAR-OTP-2072-1068-R01](#), at 1077-1079, l.298-357; [CAR-OTP-2014-0729-R01](#), at 0740.

<sup>1176</sup> **P-0954:** [CAR-OTP-2048-0171-R02](#), at 0184, para.78; **P-1647:** [CAR-OTP-2050-0654-R02](#), at 0660, para.39; **P-1666:** [CAR-OTP-2059-0361-R03](#), at 0367, para.32; [REDACTED]; **P-1719:** [CAR-OTP-2062-0039-R02](#), at 0055, para.102; **P-1786:** [CAR-OTP-2058-0200-R01](#), at 0207-0208, para.42; **P-2233:** [CAR-OTP-2118-5817-R01](#), at 5839, l.735-750; **P-1558:** [CAR-OTP-2105-0195-R01](#), at 0208, paras.94-99; [CAR-OTP-2094-7618](#) from [00:20:24] to [00:22:38] and its transcript and translation [CAR-OTP-2118-4284](#), at 4289, l.148 and [CAR-OTP-2118-4260](#), at 4269, l.293-326.

465. As the Seleka had withdrawn by the time YEKATOM's Group arrived, each village was taken over without resistance.<sup>1177</sup>

466. On or about 30 January 2014, **YEKATOM** and his elements entered MBAIKI, located approximately 50 kilometres southwest of PISSA.<sup>1178</sup> Again, by the time **YEKATOM** and his elements arrived, the Seleka had fled.<sup>1179</sup>

b) *Crimes committed*

**Count 24 – Forcible transfer, deportation (article 7(1)(d))**

**Count 25 – Displacement (article 8(2)(e)(viii))**

467. The YEKATOM Group's advance from PK9 to MBAIKI forced Muslim civilians to flee their towns and villages in fear of imminent attack.<sup>1180</sup> Several members of YEKATOM's Group confirm that they would have been killed had they not fled.<sup>1181</sup> Many Muslim civilians sought refuge in MBAIKI, significantly swelling MBAIKI's Muslim population.<sup>1182</sup> Others fled to BODA, where they were enclaved along with other Muslim civilians.<sup>1183</sup>

468. When YEKATOM's Group reached MBAIKI, a "reconciliation" meeting was organised by local authorities at a church. **YEKATOM's** purported assurances to the

<sup>1177</sup> **P-0954**: [CAR-OTP-2048-0171-R02](#), at 0184-0185, para.79; **P-1647**: [CAR-OTP-2050-0654-R02](#), at 0659-0660, paras.37-39; **P-1786**: [CAR-OTP-2058-0200-R01](#), at 0207-0208, para.42; **P-2353**: [CAR-OTP-2100-0226-R01](#), at 0234, paras.49-50; **P-2233**: [CAR-OTP-2118-5817-R01](#), at 5839, l.735-750 and [CAR-OTP-2118-5956-R01](#), at 5973-5974, l.586-599.

<sup>1178</sup> **P-2041**: [CAR-OTP-2104-0003-R01](#), at 0011, para.50; **P-2476**: [CAR-OTP-2114-0149-R01](#), at 0153, paras.26, 28; **P-1786**: [CAR-OTP-2058-0200-R01](#), at 0207, para.41; [CAR-OTP-2053-0576](#), at 0576.

<sup>1179</sup> **P-1813**: [CAR-OTP-2069-0035-R01](#), at 0042-0043, paras.49; **P-2353**: [CAR-OTP-2100-0226-R01](#), at 0234, para.47; **P-2354**: [CAR-OTP-2105-0991-R01](#), at 1000, paras.48-49.

<sup>1180</sup> **P-1838**: [CAR-OTP-2100-0252-R02](#), at 0263, para.56; **P-2475**: [CAR-OTP-2110-0556-R03](#), at 0578, para. 149; **P-0954**: [CAR-OTP-2048-0171-R02](#), at 0187, para.95; **P-2476**: [CAR-OTP-2114-0149-R01](#), at 0154, para.31; **P-2389**: [CAR-OTP-2104-0033-R01](#), at 0041-0042, paras.46-47; **P-2419**: [CAR-OTP-2112-0036-R01](#), at 0042-0043, 0048, paras.35-37, 68; **P-2388**: [CAR-OTP-2108-0003-R01](#), at 0016-0017, paras.76, 81; **P-2353**: [CAR-OTP-2100-0226-R01](#), at 0232-0233, paras.37-38, 41-44; **P-2354**: [CAR-OTP-2105-0991-R01](#), at 0998, para.42; **P-2084**: [CAR-OTP-2094-0968-R02](#), at 0973, 0980, 0983, paras.31, 64, 77; **P-2233**: [CAR-OTP-2118-5956-R01](#), at 5968-5969, 5971, l.413-437, 511-518; **P-1962**: [CAR-OTP-2068-0037-R02](#), at 0045, para.35.

<sup>1181</sup> [REDACTED].

<sup>1182</sup> **P-0974**: [CAR-OTP-2058-0165-R01](#), at 0178, para.87; **P-1666**: [CAR-OTP-2059-0361-R03](#), at 0363, 0374 and 0376-0377, paras.13, 69 and 80; **P-1823**: [CAR-OTP-2063-0369-R01](#), at 0375, para.33; **P-1813**: [CAR-OTP-2069-0035-R01](#), at 0040-0041, paras.34, 37; **P-2041**: [CAR-OTP-2104-0003-R01](#), at 0010-0011, paras.48-49; **P-2389**: [CAR-OTP-2104-0033-R01](#), at 0038-0042, paras.33, 41, 43-44, 47; **P-2354**: [CAR-OTP-2105-0991-R01](#), at 0999, paras.43-44; **P-2084**: [CAR-OTP-2094-0968-R02](#), at 0983, para.75; [CAR-OTP-2048-0129](#), at 0129; [CAR-OTP-2053-0576](#), at 0576; [CAR-OTP-2008-0923](#), at 0924.

<sup>1183</sup> **P-2233**: [CAR-OTP-2118-5956-R01](#), at 5974, l.600-607; **P-2084**: [CAR-OTP-2094-0968-R02](#), at 0982, para.73.

Muslim community were empty – his own elements knew that the meeting was a charade.<sup>1184</sup> Members of YEKATOM’s Group threatened Muslims in MBAIKI, telling them to leave and gesturing, running their fingers across their throats.<sup>1185</sup> [REDACTED].<sup>1186</sup>

469. The increasingly hostile environment towards Muslims that YEKATOM’s Group perpetuated and heightened caused MBAIKI’s Muslim population to flee *en masse*, from about 6 February 2014 onwards. Chadian forces evacuated Muslims to CHAD, while others were displaced to other parts of CAR.<sup>1187</sup> Within two weeks, MBAIKI’s entire Muslim population had been removed, except its second Deputy Mayor Djido SALEH (“SALEH”) and his family, who refused to leave their hometown.<sup>1188</sup>

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<sup>1184</sup> [REDACTED].

<sup>1185</sup> **P-1666:** [CAR-OTP-2059-0361-R03](#), at 0368, 0370, paras.37, 44; **P-1823:** [CAR-OTP-2063-0369-R01](#), at 0375, para.32; **P-1839:** [CAR-OTP-2072-1039-R01](#), at 1057-1060, l.613-743; **P-2389:** [CAR-OTP-2104-0033-R01](#), at 0043, para.57; **P-2353:** [CAR-OTP-2100-0226-R01](#), at 0235, paras.53-55; **P-2354:** [CAR-OTP-2105-0991-R01](#), at 1001-1002, paras.53, 57-58; [CAR-OTP-2055-1987](#), at 2159; [CAR-OTP-2017-0115](#), at 0128; [CAR-OTP-2001-2308](#), at 2343-2344.

<sup>1186</sup> [REDACTED].

<sup>1187</sup> **P-0954:** [CAR-OTP-2048-0171-R02](#), at 0187, para.95; **P-1647:** [CAR-OTP-2050-0654-R02](#), at 0661, para.48; **P-1666:** [CAR-OTP-2059-0361-R03](#), at 0374-0376, paras.69-76; **P-1823:** [CAR-OTP-2063-0369-R01](#), at 0375, para.33; **P-1839:** [CAR-OTP-2072-1039-R01](#), at 1057-1060, l.613-743; **P-1813:** [CAR-OTP-2069-0035-R01](#), at 0043-0044, paras.53, 59; **P-2196:** [CAR-OTP-2112-0065-R01](#), at 0071, 0074-0075, paras.35-38, 58-60; **P-2582:** [CAR-OTP-2117-0605-R02](#), at 0619, paras.86-87; **P-2041:** [CAR-OTP-2104-0003-R01](#), at 0015, paras.63-65; **P-2389:** [CAR-OTP-2104-0033-R01](#), at 0045-0046, paras.67-72; **P-2353:** [CAR-OTP-2100-0226-R01](#), at 0237-0238, paras.60-64; **P-2354:** [CAR-OTP-2105-0991-R01](#), at 1002-1003, paras.63-67, 70; **P-2084:** [CAR-OTP-2094-0968-R02](#), at 0981-0982, paras.67, 69; **P-2432:** [CAR-OTP-2117-0645-R01](#), at 0656, para.62; [CAR-OTP-2117-0687](#), at 0687-0688; [CAR-OTP-2001-2248](#), at 2249; [CAR-OTP-2048-0129](#), at 0129; [CAR-OTP-2053-0576](#), at 0576; [CAR-OTP-2055-1938](#); [CAR-OTP-2049-0462](#), at 0497; [CAR-OTP-2001-2308](#), at 2344; [CAR-OTP-2055-1987](#), at 2159; [CAR-OTP-2019-3120](#); [CAR-OTP-2001-0409](#), at 0411; [CAR-OTP-2023-2049](#), from [00:25:49] to [00:27:22] and its transcript and translation [CAR-OTP-2127-6194](#), at 6200, l.245-259 and [CAR-OTP-2127-6298](#), at 6305, l.245-259.

<sup>1188</sup> **P-1813:** [CAR-OTP-2069-0035-R01](#), at 0044, para.59; **P-2196:** [CAR-OTP-2112-0065-R01](#), at 0071-0072, paras.39, 42; **P-2353:** [CAR-OTP-2100-0226-R01](#), at 0237, para.61; **P-2432:** [CAR-OTP-2117-0645-R01](#), at 0656, para.62; [CAR-OTP-2117-0687](#), at 0687-0688; [CAR-OTP-2001-2707](#), at 2728, para.22; [CAR-OTP-2001-2248](#), at 2249; [CAR-OTP-2001-2308](#), at 2316, 2344; [CAR-OTP-2055-1987](#), at 2159; [CAR-OTP-2001-4422](#), at 4422.

470. YEKATOM's Group established checkpoints at PK9,<sup>1189</sup> SEKIA,<sup>1190</sup> BIMON,<sup>1191</sup> BOSSONGO,<sup>1192</sup> and PISSA<sup>1193</sup> in their advance towards MBAIKI. Armed elements<sup>1194</sup> regulated movement and targeted Muslims, preventing their circulation.<sup>1195</sup> They confiscated cattle and goods, and exacted illegal "tolls"<sup>1196</sup> part of which **YEKATOM** personally collected.<sup>1197</sup>

**Count 26 – Murder (article 7(1)(a))**

**Count 27 – Murder (article 8(2)(c)(i))**

471. On 28 February 2014, elements of YEKATOM's Group participated in the killing of Deputy Mayor SALEH in MBAIKI. SALEH and his family were among the few

<sup>1189</sup> **P-0954:** [CAR-OTP-2048-0171-R02](#), at 0183, 0186, paras.74, 89; **P-1647:** [CAR-OTP-2050-0654-R02](#), at 0660, para.44; **P-2475:** [CAR-OTP-2110-0556-R03](#), at 0578, para.151; **P-0974:** [CAR-OTP-2058-0165-R01](#), at 0179, para.95; **P-2084:** [CAR-OTP-2094-0968-R02](#), at 0983-0984, paras.78-79; [CAR-OTP-2055-2610](#) [00:07:27] to [00:08:44] and its transcript and translation [CAR-OTP-2107-6906](#), at 6913-6914, l.193-233, and [CAR-OTP-2122-2271](#), at 2279-2280, l.193-236; [CAR-OTP-2001-6251](#), at 6294.

<sup>1190</sup> **P-1647:** [CAR-OTP-2050-0654-R02](#), at 0660, para.44; **P-1858:** [CAR-OTP-2063-0050-R01](#), at 0058, para.50; **P-1839:** [CAR-OTP-2072-0822-R01](#), at 0824, 0829, 0832, l.43-68, 227-255, 353-370; **P-0487:** [CAR-OTP-2076-0495-R01](#), at 0511-0513 l.570-573, 577, 611-614 and at [CAR-OTP-2076-0516-R03](#), at 0523-0525, l.227-231, 265-269, 286-299; [REDACTED]; **P-2419:** [CAR-OTP-2112-0036-R01](#), at 0057-0058, paras.122-123; **P-2084:** [CAR-OTP-2094-0968-R02](#), at 0983-0984, paras.78-79; **P-2233:** [CAR-OTP-2118-5817-R01](#), at 5837, l.658-661, 725-734, [CAR-OTP-2118-5930-R01](#), at 5948, l.631-636, [CAR-OTP-2122-2533-R01](#), at 2553-2555, l.641-723 and [CAR-OTP-2122-2566-R01](#), at 2577-2583, l.370-579; **P-2233:** [CAR-OTP-2119-0180](#); [CAR-OTP-2001-0835](#), at 0884.

<sup>1191</sup> [REDACTED].

<sup>1192</sup> [REDACTED].

<sup>1193</sup> **P-1647:** [CAR-OTP-2050-0654-R02](#), at 0660, para.44; **P-1839:** [CAR-OTP-2072-0914-R01](#), at 0932, l.612-635; **P-0487:** [CAR-OTP-2076-0495-R01](#), at 0503, 0512, lns.263-268, 591; **P-1813:** [CAR-OTP-2069-0035-R01](#), at 0046, para.74; **P-2475:** [CAR-OTP-2110-0556-R03](#), at 0578, para.151; **P-2511:** [CAR-OTP-2114-0178-R01](#), at 0186, para.51; **P-2084:** [CAR-OTP-2094-0968-R02](#), at 0983-0984, paras.78-79; [CAR-OTP-2007-0925](#), at 0996; [CAR-OTP-2001-0835](#), at 0876 and 0884; [CAR-OTP-2001-5739](#), at 5798.

<sup>1194</sup> **P-2475:** [CAR-OTP-2110-0556-R03](#), at 0579, 0581, paras.156, 158, 171, 172; **P-2620:** [CAR-OTP-2121-2567-R02](#), at 2573-2574, para.39; **P-2419:** [CAR-OTP-2112-0036-R01](#), at 0057, para.122; **P-2233:** [CAR-OTP-2118-5902-R01](#), at 5917, l.489-506; [CAR-OTP-2007-0925](#), at 0996; [CAR-OTP-2074-3246](#), at 3247.

<sup>1195</sup> **P-2475:** [CAR-OTP-2110-0556-R03](#), at 0579, para.156; **P-2041:** [CAR-OTP-2104-0003-R01](#), at 0013, para.58; **P-2389:** [CAR-OTP-2104-0033-R01](#), at 0042, para.48; **P-2620:** [CAR-OTP-2123-0057-R02](#), at 0065, para.57; **P-2419:** [CAR-OTP-2112-0036-R01](#), at 0042, para.34; **P-2353:** [CAR-OTP-2100-0226-R01](#), at 0238, para.67; **P-2233:** [CAR-OTP-2122-2533-R01](#), at 2563-2565, l.993-1079 and [CAR-OTP-2122-2566-R01](#), at 2567-2568, 2573-2577, l.23-51, 240-360.

<sup>1196</sup> **P-1647:** [CAR-OTP-2050-0654-R02](#), at 0665, para.79; **P-1838:** [CAR-OTP-2100-0252-R02](#), at 0272, paras.108-109; **P-2475:** [CAR-OTP-2110-0556-R03](#), at 0579, 0581, paras.156, 158, 171, 172; **P-2620:** [CAR-OTP-2123-0057-R02](#), at 0060-0061, 0065, paras.22-23, 25, 55-58 and [CAR-OTP-2121-2567-R02](#), at 2573-2574, para.39; **P-2233:** [CAR-OTP-2118-5817-R01](#), at 5837-5838, l.658-706; [CAR-OTP-2001-6251](#), at 6294; [CAR-OTP-2074-3246](#), at 3247.

<sup>1197</sup> **P-1838:** [CAR-OTP-2100-0252-R02](#), at 0272, para.109; **P-2475:** [CAR-OTP-2110-0556-R03](#), at 0581, para.172; **P-0974:** [CAR-OTP-2058-0165-R01](#), at 0179, para.95; [CAR-OTP-2118-6931](#); **P-2233:** [CAR-OTP-2118-5902-R01](#), at 5916-5917, l.483-488; **P-2620:** [CAR-OTP-2123-0057-R02](#), at 0061, 0065, paras.24, 59; **P-2582:** [CAR-OTP-2117-0605-R02](#), at 0617, para.70; [CAR-OTP-2001-0835](#), at 0884; [CAR-OTP-2001-5739](#), at 5798; [CAR-OTP-2074-3246](#), at 3247.

remaining Muslims in the town.<sup>1198</sup> He was threatened by Anti-Balaka elements in the days leading up to his murder.<sup>1199</sup> On 28 February his house was attacked by a number of individuals, including members of the Anti-Balaka. While SALEH attempted to defend his home, his family managed to flee to safety. Finally, taking flight in fear of his life, SALEH was caught within metres of the local *gendarmerie*, brutally killed, and his body mutilated.<sup>1200</sup>

472. On or about 2 March 2014 at a meeting with the *gendarmerie* and MISCA regarding SALEH's murder, **YEKATOM** admitted that he knew who was responsible for the killing and that he had sanctioned them,<sup>1201</sup> indicating the substantial involvement and responsibility of his elements in the crime.

### Count 28 – Persecution (article 7(1)(h))

473. The crimes and acts described above were committed by **YEKATOM**, **YEKATOM's** Group, and other Anti-Balaka elements, in a coordinated effort to cleanse the towns and villages along the PK9 – MBAIKI axis of their Muslim population. That effort demonstrates the Anti-Balaka's Criminal Policy Common Purpose as implemented by **YEKATOM's** Group, its leadership, and other elements under the Anti-Balaka leadership or National Coordination.

474. **YEKATOM's** and his Group's attack on Muslim civilians; their expulsion; the murder of a prominent Muslim leader; and the commission of violent crimes and acts,<sup>1202</sup> all severely deprived the Muslim inhabitants of the towns and villages along the PK9 – MBAIKI axis of fundamental rights. These include the rights to life, liberty, mental and bodily integrity, dignity, and religious freedom.

<sup>1198</sup> **P-1813**: [CAR-OTP-2069-0035-R01](#), at 0044, para.59; **P-2196**: [CAR-OTP-2112-0065-R01](#), at 0072, para.42; [CAR-OTP-2001-2707](#), at 2728, para.22; [CAR-OTP-2001-2248](#), at 2249.

<sup>1199</sup> **P-1813**: [CAR-OTP-2069-0035-R01](#), at 0045, para.64; [CAR-OTP-2053-0576](#), at 0576.

<sup>1200</sup> **P-1838**: [CAR-OTP-2100-0252-R02](#), at 0270-0271, paras.98-106; **P-1813**: [CAR-OTP-2069-0035-R01](#), at 0044-0045, paras.59, 63-69; **P-1595**: [CAR-OTP-2104-0274-R02](#), at 0292-0293, paras.95-99; [CAR-OTP-2059-0384](#), from [00:00:00] to [00:14:37] and its transcript and translation [CAR-OTP-2107-3014](#) and [CAR-OTP-2118-5633](#); [CAR-OTP-2058-0573](#), from [00:29:50] to [00:31:32] and its transcript [CAR-OTP-2118-0420](#) at 0436, l.590-621; **P-2196**: [CAR-OTP-2112-0065-R01](#), at 0072-0073, paras.42-51; **P-2476**: [CAR-OTP-2114-0149-R01](#), at 0157-0158, paras.48-55; [CAR-OTP-2001-2308](#), at 2316; [CAR-OTP-2048-0129](#), at 0129-0130.

<sup>1201</sup> [CAR-OTP-2053-0576](#), at 0577.

<sup>1202</sup> See above, paras.467-472.

c) *Direct perpetrators of the crimes*

475. **YEKATOM** and his elements committed the Charged Crimes during their take-over of the PK9 – MBAIKI axis.

476. *First*, the Charged Crimes were perpetrated in the area under **YEKATOM**'s control. As previously stated, **YEKATOM** controlled distinct territory in south-western CAR and established bases and checkpoints there, including along the PK9 – MBAIKI axis.<sup>1203</sup>

477. *Second*, **YEKATOM** ordered the operations and deployed his elements to the towns and villages in which they committed the crimes.<sup>1204</sup> He ordered the erection of checkpoints to extort money and goods from those trying to pass through.<sup>1205</sup>

478. *Third*, **YEKATOM** was regularly present in areas under his control, including during the period when his elements were committing crimes.<sup>1206</sup> In relation to SALEH's murder specifically, **YEKATOM**'s admission that he had sanctioned the perpetrators shows the involvement, participation, and responsibility of elements subject to his authority in the killing.<sup>1207</sup>

d) *Knowledge and intent of YEKATOM*

479. **YEKATOM**'s intent and knowledge is shown by his ordering, endorsement, approval, and/or presence during the commission of the crimes by his elements in the LOBAYE Prefecture. Significantly, he had constructive and actual knowledge of the actions of his elements, whom he personally interacted with on the ground, and who also regularly reported to him while along the PK9-MBAIKI axis either in person, or using cell phones and THURAYA.<sup>1208</sup>

<sup>1203</sup> See above, paras.361, 463-466, 470.

<sup>1204</sup> [CAR-OTP-0080-0840](#), at 0842; **P-1786**: [CAR-OTP-2058-0200-R01](#), at 0204, 0207-0208, paras.23, 42.

<sup>1205</sup> **P-1339**: [CAR-OTP-2041-0741-R01](#), at 0750, para.59; **P-1838**, [CAR-OTP-2100-0252-R02](#), at 0272, para.109; [CAR-OTP-2074-3246](#), at 3247.

<sup>1206</sup> **BIMON**: **P-2419**: [CAR-OTP-2112-0036-R01](#), at 0048-0051, paras.69, 71, 74-77, 85; **PISSA**: **P-1503**: [CAR-OTP-2046-0571-R03](#), at 0579; [CAR-OTP-2001-0835](#), at 0876; **MBAIKI**: **P-1786**: [CAR-OTP-2058-0200-R01](#), at 0207, para.41; [CAR-OTP-2053-0576](#), at 0576-0577.

<sup>1207</sup> See above, para.472.

<sup>1208</sup> [REDACTED].

e) *Knowledge and intent of NGAISSONA*

480. During the relevant time period, **YEKATOM** reported to the Anti-Balaka National Coordination and liaised with **NGAISSONA**, as **YEKATOM** and his Group operated under the National Coordination, under **NGAISSONA**'s authority.<sup>1209</sup> After the 5 December 2013 Attack, **YEKATOM** continued to meet and coordinate with senior Anti-Balaka leaders, including **NGAISSONA**, **WENEZOU**, **MOKOM**, **KAMEZOLAI**, **FEISSONA**, **NGREMANGO**, and other Anti-Balaka commanders.<sup>1210</sup>

481. Although it was well known that **YEKATOM**'s Group controlled the axis from PK9 to MBAIKI, it was only after the Muslim population was essentially gone, and the July 2014 BRAZZAVILLE Agreement signed, that **NGAISSONA** took part in missions to dismantle roadblocks along the PK9 – MBAIKI axis.<sup>1211</sup> At the end of November 2014, **NGAISSONA** also criticised the statement made by **SAMBA-PANZA** during her visit to MBAIKI on 12 February 2014 — in the midst of the evacuation of the Muslim population — in which she denounced the violent acts committed by the Anti-Balaka.<sup>1212</sup>

482. The situation and crimes committed by **YEKATOM**'s Group in the LOBAYE Prefecture were also widely and contemporaneously reported in the media.<sup>1213</sup> As with **YEKATOM**'s crimes in BANGUI and BOEING, **NGAISSONA** did nothing to impede or condemn **YEKATOM**'s crimes along the PK9-MBAIKI axis, knowing that they would occur in the ordinary course of events. Instead, **NGAISSONA** sanctioned their commission by failing to denounce them, inviting **YEKATOM** to high level meetings, and allowing him to represent the Anti-Balaka<sup>1214</sup>— all demonstrating that **NGAISSONA**'s earlier acts and omissions were *intended* to facilitate or otherwise

<sup>1209</sup> Confirmation Decision, para.65; **P-0487**: [CAR-OTP-2076-0146-R01](#), at 0159, 0162, l. 479-481, 585-587; **P-1339**: [CAR-OTP-2041-0741-R01](#), at 0750, para.65; **P-0992**: [CAR-OTP-2122-6499-R01](#), at 6523, paras.152-155; See above, para.324.

<sup>1210</sup> See above, para.415.

<sup>1211</sup> [CAR-OTP-2030-0243](#); **P-0808**: [CAR-OTP-2093-0010-R01](#), at 0032, para.125.

<sup>1212</sup> [CAR-OTP-2023-2919](#) from [00:08:18] to [00:09:59] and its transcript [CAR-OTP-2107-1516](#), at 1518, l.74-86; **P-0925**: [CAR-OTP-2107-0925-R01](#), at 0926, l.15-39; [CAR-OTP-2030-0255](#), at 0258; [CAR-OTP-2055-1987](#), at; [CAR-OTP-2067-1500](#), at 1501.

<sup>1213</sup> [CAR-OTP-2001-2248](#), at 2249; [CAR-OTP-2008-0923](#); [CAR-OTP-2001-0409](#), at 0411; [CAR-OTP-2001-2308](#), at 2343-2344; [CAR-OTP-2055-1938](#).

<sup>1214</sup> See above, para.326.

contribute to the commission of the types of crimes that **YEKATOM** and his Group committed.<sup>1215</sup>

## E. CHILD SOLDIERS

### a) Crimes committed

#### Count 29 – Conscription, enlistment, and use of children in hostilities (article 8(2)(e)(vii))

483. From at least December 2013 through August 2014, children under the age of 15 were present among **YEKATOM**'s elements.

484. Children, including those under 15, joined **YEKATOM**'s Group both through forcible conscription and voluntary enlistment.<sup>1216</sup> They were stationed at the **YAMWARA** School Base<sup>1217</sup> and other bases and checkpoints controlled by **YEKATOM**,<sup>1218</sup> including in **BOEING**,<sup>1219</sup> along the PK9 – **MBAIKI** axis in **SEKIA**,<sup>1220</sup>

<sup>1215</sup> [Bemba, et al AJ](#), para.1306 (“The Appeals Chamber recalls that there is no bar to a trial chamber using evidence to infer, either backwards or forward in time ... [there is no] overarching rule prohibiting the use of subsequent evidence to infer that an accused is involved in a common plan at an earlier point in time”); [Bemba, et al TJ](#), para.410 (relating to *post factum* conduct), para.735 *et seq.*, and para. 800 (noting, in the context of an *ex post facto* cover-up, the relevance and probative value of such evidence as follows: “... the above-mentioned intercepts prove that the three co-perpetrators clearly intended to take measures to conceal their *prior activities*. The discussions are therefore revealing with regard to the co-perpetrators’ *earlier activities*”) (emphasis added); see also *Prosecutor v. Popović, et al*, Judgement, Case No. IT-05-88-T, 10 June 2010, para.1067. “[t]he Trial Chamber notes that the reburial operation, which took place during September and October 1995, is corroborative of the Trial Chamber’s finding that the mass executions following the fall of Srebrenica [July 1995] were planned and organised as part of a wide scale, premeditated killing operation”).

<sup>1216</sup> **P-2475**: [CAR-OTP-2110-0556-R03](#), at 0561-0563, paras.34-40, 46-47; **P-2620**: [CAR-OTP-2123-0057-R02](#), at 0060, paras.16-17 and [CAR-OTP-2121-2567-R02](#), at 2570, para.19; **P-2582**: [CAR-OTP-2117-0605-R02](#), at 0608-0609, paras.21-22, 24; **P-2476**: [CAR-OTP-2114-0149-R01](#), at 0154, paras.32-33; **P-2082**: [CAR-OTP-2109-0452-R01](#), at 0462, paras.47-48; **P-2511**: [CAR-OTP-2114-0178-R01](#), at 0182, para.29; **P-2083**: [CAR-OTP-2110-0333-R01](#), at 0339, para.37.

<sup>1217</sup> **P-2475**: [CAR-OTP-2110-0556-R03](#), at 0568, 0572-0578, paras.82-83, 111-149; **P-2511**: [CAR-OTP-2114-0178-R01](#), at 0182-0183, paras.28, 30; **P-1716**: [CAR-OTP-2053-0062-R01](#), at 0069, para.38; **P-1839**: [CAR-OTP-2122-6762-R01](#) at 6767-6768, 6770, l.147-197, 261-282; **P-2233**: [CAR-OTP-2122-2393-R01](#), at 2430-2433, l.1196-1234, 1288-1349; [CAR-OTP-2065-3843](#) from [00:00:00] to [00:01:17] and its transcript and translation [CAR-OTP-2107-3077](#) and [CAR-OTP-2118-5668](#); [CAR-OTP-2087-2805](#) from [00:00:00] to [00:03:15] and its transcript [CAR-OTP-2122-7413](#); **P-2587**: [CAR-OTP-2120-0211-R02](#), at 0219, para.43.

<sup>1218</sup> **P-1974**: [CAR-OTP-2068-0222-R02](#), at 0225-0227, paras.20-31; **P-2018**: [CAR-OTP-2071-0308](#); **P-2475**: [CAR-OTP-2110-0556-R03](#), at 0568, 0569, 0573, and 0579 paras.82, 83, 86, 115, and 162; **P-2082**: [CAR-OTP-2109-0452-R01](#), at 0462, para.49.

<sup>1219</sup> **P-1921**: [CAR-OTP-2081-0072-R02](#), at 0090, para.94; **P-2475**: [CAR-OTP-2110-0556-R03](#), at 0561, 0566, 0571 and 0572, paras.34, 69, and 102-110.

<sup>1220</sup> **P-1813**: [CAR-OTP-2083-0279-R01](#), at 0283, paras.21-23; [REDACTED].

KAPOU<sup>1221</sup> and PISSA,<sup>1222</sup> and along the PISSA – MONGOUMBA axis,<sup>1223</sup> including in MBATA and BATALIMO.<sup>1224</sup>

485. These children carried out a variety of tasks, such as relaying messages, spying,<sup>1225</sup> manning checkpoints<sup>1226</sup> and participating in hostilities, including the 5 December 2013 BANGUI Attack.<sup>1227</sup> The children were used to injure, weaken, and execute prisoners.<sup>1228</sup> Some children were also used as a free workforce<sup>1229</sup> taking part, for instance, [REDACTED].<sup>1230</sup>

486. Children in YEKATOM's Group were forced to participate in military-style training, taught how to use weapons, and how to behave in combat.<sup>1231</sup> They were subjected to threats, and to physical and mental violence.<sup>1232</sup> To control fear and hunger, children were given drugs at the Anti-Balaka camps, as well as during the execution of enemies and in

<sup>1221</sup> **P-2511:** [CAR-OTP-2114-0178-R01](#), at 0185-0186, paras.44-49; [REDACTED].

<sup>1222</sup> **P-1813:** [CAR-OTP-2083-0279-R01](#), at 0283, paras.21-23; [REDACTED]; **P-2511:** [CAR-OTP-2114-0178-R01](#), at 0186, paras.49-50; **P-2084:** [CAR-OTP-2094-0968-R02](#), at 0985, para.87.

<sup>1223</sup> **P-1974:** [CAR-OTP-2068-0222-R02](#), at 0226, para.26; [CAR-OTP-2068-0558](#), at 0559, 0562 and 0564; **P-2442:** [CAR-OTP-2105-0940-R03](#), at 0945, 0947-0948, paras.34, and 46-56; **P-2475:** [CAR-OTP-2110-0556-R03](#), at 0583, para.184.

<sup>1224</sup> [CAR-OTP-2128-1373](#); [CAR-OTP-2068-0558](#), at 0559, 0562 and 0564; [REDACTED].

<sup>1225</sup> **P-2511:** [CAR-OTP-2114-0178-R01](#), at 0184, paras.36-37; **P-2082:** [CAR-OTP-2109-0452-R01](#), at 0462, para.50.

<sup>1226</sup> **P-2475:** [CAR-OTP-2110-0556-R03](#), at 0574, 0581, paras.118, 172; **P-2233:** [CAR-OTP-2118-5902-R01](#), at 5914-5916, l.407-481; **P-2083:** [CAR-OTP-2110-0333-R01](#), at 0344, para.60.

<sup>1227</sup> **P-2475:** [CAR-OTP-2110-0556-R03](#), at 0568-0569, paras.84-89; **P-2233:** [CAR-OTP-2118-5902-R01](#), at 5918-5919, 5925, l.536-591, 771-793.

<sup>1228</sup> **P-2475:** [CAR-OTP-2110-0556-R03](#), at 0569, 0572, 0575, paras.89, 91-92, 111, 125, 128-129, 132-133; **P-2233:** [CAR-OTP-2118-5902-R01](#), at 5906-5907, 5909-5910, 5918-5919, 5925, l.136-155, 210-255, 536-591, 771-793.

<sup>1229</sup> **P-2511:** [CAR-OTP-2114-0178-R01](#), at 0184, 0186, paras.36, 47; **P-2476:** [CAR-OTP-2114-0149-R01](#), at 0154, para.34; **P-2084:** [CAR-OTP-2094-0968-R02](#), at 0985, para.87; **P-2083:** [CAR-OTP-2110-0333-R01](#), at 0344, para.60.

<sup>1230</sup> [REDACTED].

<sup>1231</sup> **P-2475:** [CAR-OTP-2110-0556-R03](#), at 0565-0566, paras.62-63, 66-68; **P-2620:** [CAR-OTP-2123-0057-R02](#), at 0062, para.38 and [CAR-OTP-2121-2567-R02](#), at 2571, para.23; **P-2082:** [CAR-OTP-2109-0452-R01](#), at 0463, para.52; **P-2233:** [CAR-OTP-2118-5902-R01](#), at 5904-5906, 5921-5922, l.58-127, 647-677; **P-2587:** [CAR-OTP-2120-0211-R02](#), at 0219, para.43.

<sup>1232</sup> **P-2475:** [CAR-OTP-2110-0556-R03](#), at 0565-0566, paras.59-66; **P-2476:** [CAR-OTP-2114-0149-R01](#), at 0156, paras.42-44; **P-2082:** [CAR-OTP-2109-0452-R01](#), at 0463, para.51; **P-2582:** [CAR-OTP-2117-0605-R02](#), at 0610, para.28; [CAR-OTP-2073-0871](#), at 0877.

combat.<sup>1233</sup> Some children enlisted in YEKATOM's Group were also subject to sexual abuse by his elements.<sup>1234</sup>

487. On 4 August 2014, [REDACTED] UNICEF, **YEKATOM** attended a demobilisation ceremony [REDACTED], where he signed an agreement to (i) demobilise 153 children in his Group; and (ii) refrain from re-recruiting them.<sup>1235</sup> Those children, between ages 8 and 18,<sup>1236</sup> comprised at least 15 children under the age of 15 years at the time of their demobilisation.<sup>1237</sup> A [REDACTED] ceremony organised to mark the launch of the demobilisation project was held in MBAIKI [REDACTED]<sup>1238</sup> and attended by NGAYA on behalf of **YEKATOM**, **NGAISSONA** and the Anti-Balaka National Coordination.<sup>1239</sup>

*b) Direct perpetrators of the crimes*

488. **YEKATOM** and his Group enlisted and conscripted children under the age of 15 into YEKATOM's Group and used them for a variety of tasks, including taking active part in hostilities.

489. *First*, **YEKATOM** was personally introduced to and interacted with children under the age of 15 in his Group.<sup>1240</sup> [REDACTED].<sup>1241</sup>

490. *Second*, **YEKATOM** issued orders to the children in his Group, including ordering them to participate in the 5 December 2013 BANGUI Attack<sup>1242</sup> and to man checkpoints.<sup>1243</sup>

<sup>1233</sup> **P-2475**: [CAR-OTP-2110-0556-R03](#), at 0563, 0566, 0572, 0574-0575, paras.45, 48-49, 109, 123-124, 126; **P-2620**: [CAR-OTP-2123-0057-R02](#), at 0065, paras.60-62 and [CAR-OTP-2121-2567-R02](#), at 2574, para.42; **P-2083**: [CAR-OTP-2110-0333-R01](#), at 0344, para.60; **P-2582**: [CAR-OTP-2117-0605-R02](#), at 0613, para.51; [CAR-OTP-2066-5307](#), from [00:07:15] to [00:07:42] and from [00:11:37] to [00:12:26] and its transcript and translation [CAR-OTP-2127-6223](#), at 6226-6227, 6229, l.106-124, 201-208 and [CAR-OTP-2127-6334](#), at 6339-6340, 6342, l.135-157, 255-269.

<sup>1234</sup> [REDACTED].

<sup>1235</sup> [REDACTED].

<sup>1236</sup> [REDACTED].

<sup>1237</sup> [REDACTED].

<sup>1238</sup> [REDACTED].

<sup>1239</sup> [REDACTED].

<sup>1240</sup> **P-2475**: [CAR-OTP-2110-0556-R03](#), at 0562, para.40; **P-2082**: [CAR-OTP-2109-0452-R01](#), at 0463, para.53.

<sup>1241</sup> [REDACTED].

<sup>1242</sup> **P-2475**: [CAR-OTP-2110-0556-R03](#), at 0568, 0579, paras.84-89, 156.

<sup>1243</sup> **P-2475**: [CAR-OTP-2110-0556-R03](#), at 0579, para.156.

491. *Third*, **YEKATOM** ordered military-style training sessions that children were forced to participate in,<sup>1244</sup> and was present during some of these trainings.<sup>1245</sup>

492. *Fourth*, **YEKATOM** used children, including those under the age of 15 to assist him at the camp bases.<sup>1246</sup>

493. *Fifth*, **YEKATOM** [REDACTED]<sup>1247</sup> [REDACTED] participated in a ceremony held in the presence of some of these children, where he agreed to release them from his Group. As explained above, on 4 August 2014 **YEKATOM** signed an agreement to (i) demobilise 153 children in his Group; and (ii) refrain from re-recruiting them.<sup>1248</sup> At least 15 of these demobilised children were under the age of 15 at the time of their demobilisation.<sup>1249</sup>

*c) Knowledge and intent of YEKATOM*

494. **YEKATOM**'s knowledge and intent is shown by the facts above and his direct participation in the crime. They demonstrate that he was well-aware that children under the age of 15 were part of his Group and that he intended their enlistment or conscription, and participation in hostilities.

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<sup>1244</sup> **P-2475**: [CAR-OTP-2110-0556-R03](#), at 0565-0566, paras.59-66.

<sup>1245</sup> **P-2233**: [CAR-OTP-2118-5902-R01](#), at 5906, l.128-134.

<sup>1246</sup> [REDACTED].

<sup>1247</sup> [REDACTED].

<sup>1248</sup> *See above*, para.487.

<sup>1249</sup> *See above*, para.487.

## VIII. CONCLUSION

495. The evidence described above, in addition to that which will be presented in the course of trial, will establish beyond a reasonable doubt that Patrice-Edouard **NGAISSONA** is criminally responsible for the crimes charged under counts 1-6, 8, 11-17, 24-28, 30-35, and 37-42, and that Alfred **YEKATOM** is criminally responsible for the crimes charged under counts 1-6, 8, 11-17, and 24-29.

496. The Trial Brief and its annexes are filed as Confidential because they refer to material that is sensitive and not available to the public yet. A public redacted version will be filed as soon as practicable.

A handwritten signature in black ink that reads "James K. Stewart." The signature is written in a cursive, flowing style.

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**James Stewart, Deputy Prosecutor**

Dated this 3<sup>rd</sup> day of March 2021  
At The Hague, The Netherlands