

ANNEX

Confidential



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The Prosecutor v. Alfred YEKATOM and Patrice-Edouard NGAISSONA
Third Proposal of Agreements as to Evidence

The Office of the Prosecutor (“Prosecution”), pursuant to rule 69 of the Rules of Procedure, presents the Defence with its Third Proposal of Agreed Facts (“Proposal”). The Proposal contains 26 additional proposed stipulations in accordance with the Prosecution’s prior communications on the matter.

Agreement that a proposed stipulation is not contested should be expressed by checking the relevant box. Disagreement with a proposed stipulation should be accompanied by a brief explanation below the unchecked box as to the reasons of the disagreement. If the Defence teams agree to the fact with a slight reformulation they should indicate the proposed re-wording. Each box provides an empty space to this effect.

Contents

A.	FACTS ALLEGED BY THE PROSECUTION RELATING TO THE CONTEXTUAL ELEMENTS OF THE CRIMES.....	2
B.	FACTS ALLEGED BY THE PROSECUTION RELATING TO THE NATURE AND EXTENT OF SELEKA CRIMES	6

A. FACTS ALLEGED BY THE PROSECUTION RELATING TO THE CONTEXTUAL ELEMENTS OF THE CRIMES

A	Proposed Fact	Source	Defence for YEKATOM	Defence for NGAISSONA
A.1	Around August 2012, a coalition of armed groups opposing then President François BOZIZÉ emerged in north-eastern CAR under the name of the ‘Seleka.’	Confirmation Decision ¹ , para.61.	☐	☐
A.2	As an alliance among several discrete CAR militarised groups – the Seleka, was a mainly Muslim politico-military coalition.	Trial Brief ² , para.44.	☐	☐
A.3	The Seleka emerged for reasons such as 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.	Trial Brief, para.44.	☐	☐
A.4	Michel DJOTODIA (“DJOTODIA”) led the Seleka which, along with CAR nationals, also comprised some Sudanese and Chadians.	Trial Brief, para.45.	☐	☐
A.5	The Seleka’s 10 December 2012 offensive at NDELE marked a key threshold in its advance on BANGUI	Trial Brief, para.45.	☐	☐

¹ ICC-01/14-01/18-403-Conf, Decision on the confirmation of charges against Alfred Yekatom and Patrice-Edouard Ngaissona (“Confirmation Decision”).

² ICC-01/14-01/18-723-Conf, Prosecution’s Trial Brief (“Trial Brief”).

A.6	On 11 January 2013, François BOZIZE negotiated and signed the first ceasefire agreement with the Seleka in LIBREVILLE.	DCC ³ , para.30.	☐	☐
A.7	On 24 March 2013, the Seleka took control of BANGUI forcing François BOZIZÉ to flee to Cameroon.	Confirmation Decision, para.61.	☐	☐ Proposed rephrasing : On 24 March 2013, the Seleka entered Bangui.
A.8	The United Nations Security Council ("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 and ultimately authorised foreign military interventions.	Confirmation Decision, para.66. DCC, para.620.	☐	☐
A.9	From September 2013 until December 2014, the Anti-Balaka carried out attacks pursuant to an organisational policy of a criminal nature targeting the Muslim civilian population in western CAR who, based on their religious or ethnic affiliation, were perceived as collectively responsible for the crimes allegedly committed by the Seleka, complicit with, or supportive of the Seleka.	Confirmation Decision, para.70.	☐	☐
A.10	On 16 June 2014, NGAISSONA (representing the Anti-Balaka) 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.	DCC, para.115.	☐	☐

³ ICC-01/14-01/18-282-Conf-AnxB1, Document Containing the Charges, ("DCC").

A.11	There were several failed attempts to bring about the cessation of hostilities between Seleka and Anti-Balaka, including, the 16 June 2014 PARETO mediation agreement, the 23 July 2014 peace agreement signed by the Seleka and the Anti-Balaka in Brazzaville, Republic of the Congo, and the Nairobi Agreement signed in April 2015.	Confirmation Decision, para.66.	☐	☐
Pertaining to the contextual elements of war crimes				
A.12	An armed conflict not of an international character in CAR commenced in at least March 2013 between the FACA/pro-BOZIZE forces and Seleka forces, and continued between the Anti-Balaka and the Seleka until at least December 2014.	DCC para.617.	☐	☐
A.13	During the relevant period, the Seleka operated 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.	DCC, para.619.	☐	☐
A.14	Despite their official disbanding in mid-September 2013, Seleka forces were not effectively disarmed or demobilised and the factions that constituted the group remained intact.	DCC, para.619.	☐	☐
A.15	By September 2013, the Anti-Balaka was engaged in a sustained and intense armed conflict against the Seleka in western CAR.	DCC, para.50.	☐	☐

A.16	From September 2013 onwards, the Anti-Balaka engaged in attacks against the Seleka in and around BOSSANGO and BOUCA (OUHAM Prefecture), BELOKO, BOHONG and BOUAR (NANA-MAMBÉRE Prefecture), as well as BOSSEMBÉLÉ and GAGA(OMBELLA-M'POKO), with the aim of removing DJOTODIA from power and ousting the Seleka from the CAR.	Confirmation Decision, para.63.	☐	☐
A.17	Anti-Balaka attacks began near BOSSANGO in September 2013, and spread east to BOUCA in OUHAM Prefecture, west to BELOKO, BOHONG, and BOUAR in NANA-MAMBERE Prefecture, and then south, to BOSSEMBELE and BOALI in OMBELLA-M'POKO Prefecture.	DCC, para.50.	☐	☐
A.18	Hostilities between the Anti-Balaka and the Seleka culminated on 5 December 2013 in a coordinated attack on BANGUI and later on the same day, on BOSSANGO.	Confirmation Decision, para.63.		
A.19	The Seleka left BOSSEMPTELE on 17 January 2014.	DCC, para.444.	☐	☐
A.20	The Seleka withdrew from BODA, on or around 28 January 2014.	DCC, para.473.	☐	☐
A.21	The Seleka withdrew from BERBERATI around the end of January 2014.	DCC, para.539.	☐	☐
A.22	The Seleka withdrew from CARNOT at the end of January 2014.	DCC, para.511.	☐	☐
A.23	The Seleka withdrew from GUEN and GADZI on or about 30 January 2014.	DCC, para.576.	☐	☐

B. FACTS ALLEGED BY THE PROSECUTION RELATING TO THE NATURE AND EXTENT OF SELEKA CRIMES

B	Proposed Fact	Source	Defence for YEKATOM	Defence for NGAISSONA
B.1	From late 2012 to early 2013, the Seleka advanced southwards towards BANGUI attacking several towns and regional capitals, occupying military bases and targeting those suspected of supporting François BOZIZÉ.	Confirmation Decision, para.61.	☐	☐
B.2	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 24 March 2013 Coup itself.	DCC, para.619.	☐	☐
B.3	After the 24 March 2013 coup, the Seleka expanded their territorial control, suppressing resistance in regions associated with François BOZIZÉ and his Gbaya ethnic group, and subjecting the mainly non-Muslim civilian population to attacks and atrocities.	Confirmation Decision, para.61.	☐	☐

Edited by the Defence team for Mr Ngaïssona,
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