

1 International Criminal Court
2 Trial Chamber V
3 Situation: Central African Republic II
4 In the case of The Prosecutor v. Alfred Yekatom and Patrice-Edouard
5 Ngaïssona - ICC-01/14-01/18
6 Presiding Judge Bertram Schmitt, Judge Péter Kovács,
7 Judge Chang-ho Chung and Judge Beti Hohler
8 Trial Hearing - Courtroom 1
9 Monday, 9 December 2024
10 (The hearing starts in open session at 9.38 a.m.)
11 THE COURT USHER: [9:38:09] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE SCHMITT: [9:38:48] Good morning, everyone.
15 Court officer, please call the case.
16 THE COURT OFFICER: [9:38:53] Good morning, Mr President,
17 your Honours.
18 Situation in the Central African Republic II, in the case of the Prosecutor versus
19 Alfred Yekatom and Patrice-Edouard Ngaïssona, case reference
20 ICC-01/14-01/18.
21 And for the record, we are in open session.
22 PRESIDING JUDGE SCHMITT: [9:39:09] Thank you very much.
23 I ask for the appearance of the parties. We start with the Prosecution.
24 MR NIANG: [9:39:17](Interpretation) Good morning, Presiding Judge.
25 Good morning, your Honours.

1 Today, the Office of the Prosecutor is represented by myself,
2 Deputy Prosecutor Mame Niang. And with me, we have Prosecutor Kweku
3 Vanderpuye, Ms Olivia Struyven. And behind me, Lucio Garcia, Ms Maria
4 Berdennikova, Mr Pierre Belbenoit-Avich, Ms Sylvie Wakchom, Manochitra
5 Prathaban, and Yassin Mostfa.

6 And I would also take this opportunity to say good morning to the Defence
7 and the representatives of the victims.

8 PRESIDING JUDGE SCHMITT: [9:40:10] Mrs Massidda.

9 MS MASSIDDA: [9:40:14] Good morning, Mr President, your Honours. For
10 the victims of the other crimes appearing today, Ms Elisabeth Rabesandratana,
11 Ms Marie Edith Douzima-Lawson, Mr Abdou Adangabo Moussa, Mr Yaré Fall.
12 On the second row, the other bench of the legal representatives, Mr Innocent
13 Mpoko, field counsel. And then the legal officers who helped us throughout
14 the trial, Ms Mouhia Asso, Ms Evelyne Ombeni, Mr Enrique Carnero Rojo,
15 Mr Alexis Larivière, Mr Orchlon Narantsetseg, Ms Heijn Kim, and myself,
16 Paolina Massidda.

17 PRESIDING JUDGE SCHMITT: [9:40:56] Indeed, not to forget yourself.
18 That's right.

19 We turn now to Mr Suprun.

20 MR SUPRUN: [9:41:04] Good morning, Mr President. Good morning,
21 your Honours. The former child soldiers are represented today by Amina
22 Merrouche, Joseph Akem-Mevoungou, and myself Dmytro Suprun.
23 Thank you.

24 PRESIDING JUDGE SCHMITT: [9:41:17] Thank you very much.

25 And now we are turning to the Defence. We start with the Defence of

1 Mr Yekatom.

2 Ms Dimitri, please.

3 MS DIMITRI: [9:41:19] Good morning, Mr President. Good morning,
4 your Honours. Good morning, everyone in the courtroom.

5 Mr Yekatom is present this morning, behind us, and he's represented, from my
6 right-hand side, Ms Anta Guissé, Mr Sarah Bafadhel. On the row behind me,
7 Ms Yousra Lamqaddam, Mr Florent Pages-Granier, Mr Gyo Suzuki. On the
8 far left, Ms Alexandra Baer, Ms Sabine Bayssat, Ms Léa Benoit, and myself,
9 Mylène Dimitri.

10 PRESIDING JUDGE SCHMITT: [9:41:52] Thank you very much.

11 And now the Defence of Mr Ngaïssona.

12 MR KNOOPS: [9:41:56] Good morning, Mr President, your Honours. Good
13 morning, everyone in the courtroom.

14 Mr Ngaïssona is today represented by Ms Lauriane Vandeler, on my right side;
15 Ms Marie-Hélène Proulx. Second row, Alexandre Desevedavy, Despoina
16 Eleftheriou, Chiara Giudici. And on my left side, Ms Mélissa Beaulieu-Lussier
17 and Lou Crignon, and myself. Thank you.

18 PRESIDING JUDGE SCHMITT: [9:42:20] Thank you very much.

19 We start first with the closing arguments by the Office of the Prosecution.

20 I give you the floor.

21 MR NIANG: [9:42:32](Interpretation) Thank you.

22 Thank you, President, your Honours.

23 Today, the closing submissions of the Office of the Prosecutor will be presented
24 by the team with which you are familiar, who have been with you since the
25 start, but I would like to relay to you that the Prosecutor himself would have

1 liked to have been here had that been possible.

2 This was a long trial which has been in the spotlight for a long time and he

3 would have want been here, but I hope to present his case and the case that

4 was presented to you by Mr Kweku Vanderpuye over these years.

5 Your Honours, I'd like to say a few words now, if I might.

6 Today is the day that we present our closing submissions in the trial of

7 Patrice-Edouard Ngaïssona and Alfred Yekatom, and this is a very important

8 date for us and for justice, the justice that the Central African Republic has

9 been waiting for so long.

10 You've, I'm sure, heard it said that the wheels of justice turn slowly, but they,

11 as we will see today, grind exceedingly fine. It may be long coming, but it

12 comes, and it has in this case, justice, that is.

13 The completion of this lengthy and complex trial is a triumph for this

14 institution, I believe. It confirms not only the resolve of the Office of the

15 Prosecutor to fight impunity in the Central African Republic, but the resolve of

16 the Court as a whole. The Court as a whole, I would like to stress that.

17 It moreover acknowledges our commitment to bring justice to the thousands of

18 victims of the mass crimes and atrocities perpetrated in the Central African

19 Republic since August 2012, and that in the context of this situation.

20 A decision was taken by the Office of the Prosecutor to complete its

21 investigation after framing a number of cases. We did not abandon our task.

22 On the contrary, our Office has considered -- has continued to seek out the

23 truth. In this case the crimes concerned are very serious ones which have

24 caused tremendous harm to a great number of victims and communities in the

25 Central African Republic. For us, impunity is simply not an option. Even

1 less so in this case.

2 As regards the evidence presented over the course of this case, it has
3 established the guilt of the two accused as regards the crimes charged. We
4 have presented this in our closing brief, our written brief, and today you shall
5 hear us summarise that proof again today and demonstrate that guilt.

6 Mr President, Judges, I would like to recall the preamble of the Rome Statute,
7 which says that "the most serious crimes of concern to the international
8 community as a whole must not go unpunished". End of quotation.

9 The crimes committed by the two accused must be punished, and that is the
10 crux of this case.

11 This case was referred to the Court more than 10 years ago and that reflected
12 a hope to obtain justice for thousands of innocent civilians whose lives were
13 shattered by untold violence and atrocities on an unimaginable scale.

14 Unfortunately, the reality is today that for many of those victims, the suffering
15 continues.

16 The crimes charged violate the Rome Statute, and of course the norms and
17 customs of international law and the customs of war; they transgress our
18 humanity and shock the conscience. And it's important that those who are
19 responsible be brought to account and that the voices of the victims be heard.

20 That, of course, was already said when this case was opened in 2021, and we
21 said that in the context of the armed conflict which gripped the Central African
22 Republic, Patrice-Edouard Ngaïssona and Alfred Yekatom criminally
23 participated in a campaign of violence and terror targeting Muslim civilians,
24 including children, between September 2013 and December 2014. The Chamber
25 has evidence before it that proves beyond a reasonable doubt that

1 Mr Ngaïssona aided and abetted, or otherwise contributed to this campaign of
2 Anti-Balaka violence in respect of 31 counts of war crimes and crimes against
3 humanity. The Chamber likewise has evidence proving beyond a reasonable
4 doubt that Mr Yekatom perpetrated and/or ordered the 21 counts of war crimes
5 and crimes against humanity committed by the Anti-Balaka. These are the
6 crimes with which he is charged.

7 Your Honours, that evidence demands justice. It demands accountability.
8 And it demands that the Chamber find the accused guilty as charged.

9 I shall leave it there, your Honours, and I shall yield the floor to Mr Kweku
10 Vanderpuye to continue our presentation.

11 MR VANDERPUYE: [9:49:55] Thank you, Mr President.

12 Just a few logistical arrangements, Mr President.

13 PRESIDING JUDGE SCHMITT: [9:50:25] No problem. When you have
14 finished you can start.

15 Well, the reshuffling seems to have been finished. So you can start now.

16 MR VANDERPUYE: [9:51:27] Yes, Mr President. I have a presentation that
17 involves slides.

18 PRESIDING JUDGE SCHMITT: [9:51:28] Yeah, I thought so. I thought so.
19 Please.

20 MR VANDERPUYE: [9:51:29] So I think -- is that loading up now? I think
21 it's loading up now, for evidence 2.

22 I think I'll get going and hopefully the presentation will catch up with me.

23 First, thank you, Mr Deputy

24 Thank you, Mr President. It's my privilege to appear before you once again

25 on behalf of the Office of the Prosecutor and my team. I would like to start by

1 thanking the Court, the Court staff, the Registry, interpreters, counsel, and of
2 course my able team in the conduct of these challenging proceedings. And of
3 course, the many witnesses who also appeared and participated in this trial,
4 which was essential.

5 Just briefly, we intend to proceed with our presentation in six parts. I will
6 address the context in which the charged crimes were committed and an
7 overview of the accused's involvement. I'll be followed by Ms Struyven, who
8 will address Mr Ngaïssona's role in that context and his individual criminal
9 responsibility. Mr Garcia will address Mr Yekatom's individual criminal
10 responsibility. Mr Belbenoit will address the 5 December Bangui attack and
11 Mr Yekatom's role and the crimes committed by his group in Boeing and Cattin.
12 Ms Wakchom will address the Anti-Balaka's crimes in its 5 December attack of
13 Bossangoa and the enclave which lasted there through 2014, April.
14 Ms Prathaban will address the crimes at the Yamwara school base in late
15 December 2013. Ms Berdennikova will address the crimes committed along
16 the PK9-Mbaiki axis through February 2014, and the charges concerning the
17 recruitment of children under 15.

18 I will then provide a few concluding remarks, time permitting.

19 PRESIDING JUDGE SCHMITT: [9:54:17] Just in time, the presentation seems
20 to have caught up.

21 MR VANDERPUYE: [9:54:22] Just in time. We will move to the next slide.

22 In February 2021, in our opening statement, Mr President, we said that the
23 evidence will establish the accused's criminal responsibility for the charged
24 crimes in this case. As you just heard from Mr Deputy, these amount to 31
25 counts of war crimes and crimes against humanity concerning Mr Ngaïssona,

1 and for Mr Yekatom they amount to 21 counts of crimes -- war crimes and
2 crimes against humanity.

3 The charges are extremely serious. And we are confident that the
4 overwhelming evidence in this case submitted by the Prosecution - the nature
5 of which I will come too soon - on that basis, we have proved the charges
6 against both accused beyond reasonable doubt and met our burden.

7 Taken as a whole, the evidence proves beyond any reasonable doubt the
8 accused's criminal participation in and responsibility for the charged crimes as
9 confirmed by Pre-Trial Chamber II nearly five years ago. The charges arise, as
10 you know, from the Anti-Balaka's violent campaign against, and persecution of,
11 the Muslim population in western CAR, that is the western part of the country.

12 It was a widespread campaign that saw the near total severance of the Muslim
13 community and one involving indiscriminate targeting of Muslim civilians in
14 collective retribution for crimes and atrocities committed by the Seleka.

15 This trial is not a referendum, nor does it fault one side or another in this
16 conflict, and it is certainly not an academic exercise. It is about whether

17 Mr Ngaïssona and Mr Yekatom bear criminal responsibility for their actions
18 under the Rome Statute for their participation in the commission of crimes by
19 the Anti-Balaka, irrespective of whoever else might also bear responsibility for
20 the commission of crimes.

21 One does not exclude the other. This case is about their conduct and it's about
22 establishing the truth as proved by the evidence submitted and tested in this
23 Court for almost four years. A dispassionate and holistic evaluation of that
24 evidence leads to no other reasonable conclusion than the accused's guilt of the
25 crimes charged.

1 The evidence proves Mr Ngaïssona's criminal responsibility for the
2 Anti-Balaka's crimes committed in Bangui and Bossangoa and their aftermath,
3 and includes those crimes with which Mr Yekatom is charged, except for his
4 group's recruitment of children under the age of 15.
5 Mr Ngaïssona is charged as an accessory in this case. He aided and abetted
6 the commission of the crimes and otherwise contributed to the Anti-Balaka's
7 commission of them in furtherance of its criminal activity, and aware that the
8 Anti-Balaka intended to commit the types of retributive crimes charged.
9 Mr Ngaïssona had a choice whether or not to involve himself with the
10 Anti-Balaka in the first place, whether or not to involve himself in their
11 commission of crimes. Any suggestion that he had no choice is fallacious.
12 Many people in his position in CAR, if not most, did not join the Anti-Balaka.
13 But Mr Ngaïssona did. Not because he was unaware or mistaken of its nature,
14 not because he lacked foresight or common sense. He did because he wanted
15 something out of it and he wanted power -- whether indirectly by returning
16 General François Bozize to the presidency or directly, through seeking that
17 office himself, a position in the transitional government or a lucrative
18 directorship in the Sococa or ENERCA state companies.
19 The evidence is that Ngaïssona chose to lead the Anti-Balaka, yet he had the
20 means to just walk away, unlike many. He chose to partake in Bozizé's
21 rhetoric, engendering and instrumentalising ethnic division and hatred. He
22 chose to involve himself in galvanising the youth to support Bozizé's failing
23 incumbency and, after he was deposed, to mobilise them, along with
24 self-defence groups, to the Anti-Balaka. He chose to advance the group's
25 practical and ideological objectives. He helped structure it, he helped to

1 facilitate its operations and its capacity by providing money, including for
2 ammunitions and weapons, by liaising and coordinating with key leaders,
3 ComZones and coordinators such as Maxime Mokom, who was directly
4 involved in the conduct of military operations comprising a part of the
5 widespread attack the Anti-Balaka carried out against Muslim civilians from
6 September 2013 throughout December 2014.

7 As the evidence shows, Mr Ngaïssona chose to issue instructions, directions
8 and orders including in respect of certain of those attacks. There is no doubt
9 that Mr Ngaïssona knew and recognised that in instrumentalising fighters
10 filled with vengeance, stoked by inflammatory rhetoric conflating ordinary
11 Muslims, ordinary civilians, with Seleka combatants, that the types of crimes
12 committed in this case were inevitable.

13 By September 2013, the gravity of the crisis in the Central African Republic was
14 profound and it was known all around. It was discussed repeatedly at the
15 UN; it was discussed at the AU; it was discussed in the EU; and it was even
16 discussed in Washington DC.

17 Mr Ngaïssona could not but know what was happening in his country and that
18 the Anti-Balaka's crimes were certain to result in the ordinary course of the
19 events.

20 Mr Ngaïssona's long-time associate and Anti-Balaka political advisor conceded
21 the following, and I quote:

22 "When the Seleka came and took power, we thought it was just a regular Coup
23 D'état. However when they [took] goods from non-Muslims, [and] took them
24 to Muslim neighbourhoods, Muslims had to be blamed for this as well, as they
25 protected the Seleka. This is why Muslims, and not just the Seleka, became

1 the target of the Anti-Balaka."

2 That's P-0808, CAR-OTP-2093-0010, paragraph 37.

3 Mr Ngaïssona's contributions were made in furtherance of a plan in which he

4 participated with Bozizé, Bernard Mokom, Maxime Mokom and others to

5 reclaim power in the Central African Republic after the Seleka's 24 March 2013

6 coup. A plan which, in addition to seeking Djotodia's forceable removal,

7 involved using groups of individuals to fight the Seleka, motivated by thirst for

8 vengeance against Muslims collectively, as foreigners, as Seleka supporters, as

9 traitors. This is, at its essence, the Anti-Balaka's organisational policy. It was

10 criminal because, in the circumstances, it necessarily entailed targeting Muslim

11 civilians in western CAR who, based on their religion, national or ethnic

12 affiliation, were perceived collectively -- as collectively responsible for or

13 complicit with and were supportive of the Seleka.

14 It was no secret, and it was one directly related to the anti-Muslim rhetoric,

15 hate speech and disinformation in which Ngaïssona willingly took part and

16 lent his considerable influence to, along with Bozizé, Levy Yakete, Steve

17 Yambeté, the members of FROCCA, and its coordination, KNK members and

18 others among Bozizé's circle.

19 The Chamber has heard their speeches and read their communications. You

20 have seen Ngaïssona's. There is no doubt that he contributed to the

21 Anti-Balaka and to its commission of crimes pursuant to Article 25(3)(c) and (d).

22 There is just none. The evidence shows that by October 2013, as P-2843 put it,

23 quote:

24 "Everyone knew Ngaïssona was the coordinator of the Anti-Balaka."

25 October 2013. You will find that at transcript reference 73, page 75, lines 21

1 through to 25, and transcript reference page 73, lines 25 through page 75, line
2 25.

3 I'd like you to take a look again at this email. The Chamber has seen this
4 evidence in an October 17 email in which Ngaïssona requests -- I'm sorry,
5 Ngaïssona is requested to provide weapons or money for weapons, including
6 rocket-propelled grenades, AK-47s, RPGs. You see it there in front of you.
7 There it is, in black and white. And if you look at the date, you can see clearly
8 that it's in October 2013.

9 Why would someone, having nothing to do with the Anti-Balaka as the
10 Defence suggests: (a), be seized of a request like this; (b), be trusted not to
11 turn it over to the authorities or report it; and (c), actually act on it, in this case
12 by forwarding it to a member of Bozizé's close protection, one Eric Bagale
13 Danboy, who responds that a report will be made immediately. And you see
14 that at the top of the screen.

15 Ngaïssona was not a man of peace, as his defence suggests. He was a leader
16 in the Anti-Balaka long before January 2014 -- his January 2014 return to
17 Bangui to formally take charge. He said as much to the transitional president
18 and he definitively contributed to their commission of crimes in that capacity.

19 Let me turn to Mr Yekatom.

20 Mr Yekatom's responsibility for the crimes committed by his Anti-Balaka
21 group in Boeïng, Bangui, and along the PK9-Mbaïki axis in the Lobaye
22 prefecture, is proved beyond a reasonable doubt, as is his responsibility for the
23 recruitment of children under the age of 15 into his Anti-Balaka group.

24 Yekatom, members of his command and their subordinates participated in
25 a common plan. The common plan involved the commission of violent crimes

1 against Muslim civilians in his areas of responsibility. And that is consistent,
2 moreover, with the broader Anti-Balaka criminal organisational policy or
3 common purpose that I've just described.

4 Like other Anti-Balaka groups, Yekatom's elements were fueled by vengeance
5 and a violent anti-Muslim animus. At a minimum, Yekatom knew, as would
6 anyone applying common sense, that setting such individuals on Muslim
7 civilians would result in exactly the retributive violence against them for which
8 he is responsible.

9 Indeed, it was in executing his orders that his group committed such crimes
10 and, as the evidence shows, he and his commanders even expressly ordered
11 the killing of Muslim men and women -- civilians.

12 Yekatom implemented the common plan by committing and ordering the
13 commission of their crimes together with and through his group. He enlisted
14 and structured thousands of elements -- 3,000, according to him. He deployed
15 them in operations, including to areas where the Muslim civilian population
16 had already been made vulnerable after the Seleka had fled the Anti-Balaka.
17 He trained them, he armed them, and, of course, he led his group in
18 furtherance of the Anti-Balaka's widespread attack. Separately or together,
19 his contributions were essential.

20 Mr Yekatom was feared as an Anti-Balaka ComZone, including among the
21 members of his own Anti-Balaka group and throughout the Lobaye prefecture.
22 His actions lived up to his violent reputation. This is a man who shot three of
23 his own elements, killing two of them. This is a man who admitted to a fellow
24 ComZone that his group had decapitated a prisoner in their custody because
25 he was a traitor at the Yamwara school. That is a charged incident in this case.

1 The suggestion that Mr Yekatom strove for peace is very, very far from reality.

2 The reality is that the evidence proves beyond a reasonable doubt

3 Mr Yekatom's responsibility for the brutal crimes of his group committed

4 pursuant to their common plan, crimes that were consistent with the

5 Anti-Balaka's criminal organisational policy and crimes which formed a part of

6 the group's widespread attack against Muslim -- against the Muslim civilian

7 population in western CAR.

8 I'll talk about the policy.

9 The policy underpinning the widespread Anti-Balaka attack was clear.

10 P-0287 observed, and I quote:

11 "[...] because they" -- the Anti-Balaka -- "make an association between Seleka,

12 Sudanese, Chadians and 'foreigners' they would group them all together as

13 their enemy [...] the perceived enemy simply became 'Muslims' in general."

14 And you'll find that at CAR-OTP-2115-0239-R01 at pages 265 through 266. It's

15 actually at paragraph 132.

16 Here's how the Anti-Balaka elements on the ground expressed it in their own

17 words.

18 In the next video sequence you will see -- you'll notice Rodrigue Momokama,

19 one of Mr Yekatom's right-hand men, a commander in -- and he's in the video,

20 in his trademark long coat and yellow shirt. In the full clip, you will also see

21 others of his commanders, including Habib Beina and Junior Keapex.

22 (Viewing of the video excerpt)

23 THE INTERPRETER: [10:11:37] (Interpretation of the video excerpt)

24 "It's our country. It's our country. It's not the Muslims' country. It's not the

25 Muslims' country. It's the country of the Central Africans. Get out! Get

1 out!"

2 MR VANDERPUYE: [10:11:54] I'll show you another.

3 In Boeing, this is what it sounded like.

4 (Viewing of the video excerpt)

5 THE INTERPRETER: [10:12:03] (Interpretation of the video excerpt)

6 "A Muslim, even a baby... Well, I don't know what to say. That angers me.

7 [...] Would you kill a baby?

8 [...] Yes, I'd kill a baby. I'd kill a baby.

9 [...] Even a 2-year-old, for example?

10 [...] I'd kill it, even a one-year-old. Even -- even pregnant women, I'd kill

11 them."

12 MR VANDERPUYE: [10:12:32] In Boda, the Anti-Balaka member Brice

13 Kamba was clear.

14 (Viewing of the video excerpt)

15 THE INTERPRETER: [10:12:48] (Interpretation of the video excerpt)

16 "Is it possible for Muslims and Christians to live together? No, it's no longer

17 possible. It's impossible. That's -- it's mine. It's to kill Muslims. We do

18 this and then we cut here and here. If the Muslims want to leave, we don't

19 have any problems with them. But if they don't leave, we'll kill them. Even

20 the women are bad, like the husbands. A Muslim baby, it's the same thing."

21 MR VANDERPUYE: [10:13:27] In a press interview, I believe in March of 2014,

22 an Anti-Balaka member, Firmin Dopani, put it this way.

23 He said, and I quote: "We cannot accept to live together with Muslims,

24 long-term." He said: "It's our right to kill Muslims."

25 You see that highlighted for you in the -- in the slide in front. That's at

1 CAR-OTP-2001-4633.

2 In the next slide you'll see a group demonstrating how to kill a Muslim for
3 the purpose -- to show international journalists. It's a still frame that you have
4 on the screen in front of you now. While this was just a demonstration, it
5 foretells of a horrifying video of the real thing, a video in evidence depicting
6 the killing and mutilation of the deputy mayor of Mbaïki, Djido Saleh, in which
7 the evidence shows Yekatom's elements took part.

8 In this next clip, the young man you will see expresses what was plain to
9 everyone, and it is at the heart of this case.

10 (Viewing of the video excerpt)

11 THE INTERPRETER: [10:15:15] (Interpretation of the video excerpt)

12 "[...] The Arabs must leave. The Arabs must leave the Central African
13 Republic. It's my country.

14 [...] All the Arabs have to go?

15 [...] Yes, all of them. No matter what; if not, I have to continue killing the
16 Arabs to take vengeance."

17 MR VANDERPUYE: [10:15:34] And then there's this. This is Sylvestre
18 Yagouzou. He was a member of the National Coordination (Overlapping
19 speakers)

20 (Viewing of the video excerpt)

21 THE INTERPRETER: [10:15:48] (Interpretation of the video excerpt)

22 "Our message, the Anti-Balaka message - and I'm the spokesperson - is this: I
23 call on this infamous president who calls himself Djotodia to step down, to
24 resign, and I'm giving him 24 hours. I repeat: 24 hours, 24 hours to resign, to
25 save, if he understands, if he resigns, he will have saved the Central African

1 Muslims. But, if on the contrary, he does not resign, we will massacre.

2 That's clear."

3 MR VANDERPUYE: [10:16:32] Clear indeed.

4 These statements and others were made by members of the Anti-Balaka who
5 felt justified in saying and doing exactly the types of things which proved the
6 group's criminal policy and underlie its crimes, including those charged in this
7 case.

8 Now I'd like to take a moment to address the nature of the evidence presented.

9 The Prosecution has tendered over 16,000 items of evidence of the 19,000
10 submitted in the case. We've presented the evidence of 115 witnesses, 75 of
11 whom appeared before the Chamber.

12 The Chamber has received contemporaneous video footage, some of which you
13 have seen, audio recordings, photographs, call data records, call sequence
14 tables, expert reports, social media exchanges, emails, open source material,
15 NGO reports, UN reports, sitreps, press communiques, Anti-Balaka documents,
16 mission orders, government records, reports and intelligence reports. There is
17 a wealth of evidence at this Chamber's disposal.

18 You've also received expert testimony and you heard from victims of the
19 Anti-Balaka crimes in this courtroom who were courageous enough to come
20 and testify. You have also received their prior recorded testimonies.

21 You've also heard from a large number of so-called insider witnesses, and they
22 largely comprise -- comprise persons closest to the Anti-Balaka elements on the
23 ground as well as those involved in its leadership. The accused's implication
24 in the charged crimes does not rest on the evidence of Seleka members. No
25 Seleka member provided evidence in this case. The proof against the accused

1 comes mainly from members of the Anti-Balaka itself -- the people with whom
2 the accused associated, who they led, who they instructed, during the course of
3 the events.

4 The Defence protests the evidence of these insider witnesses and especially
5 those whose evidence was most damning. They suggest that they are
6 cherry-picked or biased against the accused. However contrived the
7 argument, the fact remains that these are the people who were firmly within
8 the accused's orbit. They are the ones who were there. They are the ones
9 who saw. They are the ones who heard. They are the ones who absolutely
10 know what the accused did and absolutely know what the Anti-Balaka did.

11 As we foresaw in our opening, some insider witnesses tried to minimise their
12 own responsibility and their involvement to avoid incriminating themselves, to
13 protect others, including the accused, out of loyalty to them or loyalty to the
14 Anti-Balaka movement, out of fear or out of pressure or improper contact.

15 P-0487 testified and I'll quote this, in French:

16 (Interpretation) "I'm scared of quoting names because it could cost me a lot in
17 the future. It'll cost me. I'm explaining all this, but I don't know what's
18 going to happen tomorrow. It's really serious."

19 (Speaks English) Others, such as P-1847, nearly succumbed altogether, with the
20 Chamber ultimately finding that his failure to testify on material aspects of his
21 prior statements was materially influenced by improper interference. And
22 had it not been for that improper interference, the witness's testimony
23 concerning material aspects of those prior statements would have been
24 substantially different.

25 That is at filing 2126.

1 The insider witness's prior statements, confirmed by the witnesses in court,
2 overwhelming incriminate Ngaïssona. If credited - and they should be - they
3 alone are sufficient to sustain his conviction of the charges in this case. But
4 you have far, far more.

5 As we made clear in February 2021 - and again, underscore today - we have no
6 doubt that, as an experienced Chamber, you can discern with clarity where
7 these witnesses minimised what they know, where they minimise their
8 involvement with the Anti-Balaka, their relationships with the accused and
9 their link to the group's commission of crimes in weighing their evidence. It is
10 not usual.

11 In your deliberations, it will be abundantly clear to you that their evidence
12 taken as a whole establish the accused's guilt of the charged crimes beyond any
13 reasonable doubt.

14 I'd like to turn to the context.

15 The scope of the evidence covers the period between late 2012 through 2014.

16 As the Pre-Trial Chamber confirmed, the charged crimes occurred in the course
17 of the Anti-Balaka's widespread attack of the Muslim civilian population in the
18 western part of the country, within the meaning of Article 7 of the Statute,
19 between September 2013 and December 2014.

20 Those crimes throughout the country's western provinces took place, including
21 in Ouham, Mambéré-Kadéï, Lobaye, Ouham-Pende, and Ombella-M'Poko.

22 As you know, the Defence has sought to cast the Seleka coup deposing Bozizé
23 as a "foreign invasion". In their opening, that's what they said. That's at
24 transcript 16, page 7, line 28.

25 However, while the Seleka mainly comprised Muslim fighters, emerging in

1 around August 2012, in the north and east of the country, it was led by Central
2 Africans, with Michel Djotodia, who led the UFDR at the helm. And although
3 it included mercenaries with ties with neighbouring countries, most were
4 Central Africans who joined the alliance during its advance.

5 You heard from a witness in this case, Kasper Agger. He testified, when
6 asked if it was accurate to say that the Seleka was comprised largely, if not
7 exclusively, of Sudanese and Chadian mercenaries, his response was:

8 "I wouldn't say so. It's still my impression that the majority of [the] Seleka
9 were Central Africans, both from the beginning until the end."

10 In this article, you can see clearly that the indication is the group started out
11 with 5,000 fighters, but then gradually grew to 20,000 when they captured
12 Bangui. Those 15,000 didn't come from anywhere but the Central African
13 Republic.

14 The several constituent factions which composed the Seleka coalition opposed
15 Bozizé's leadership for many reasons, including his marginalisation of the
16 predominantly Muslim regions of the Central African Republic after ousting
17 President Ange-Félix Patassé in March 2003. The related crimes were the
18 subject matter of the Bemba trial in this Court.

19 In carrying out that coup, Bozizé relied on so-called *ex-libérateurs*, fighters who
20 later aligned with him as he tried to reclaim power after his own ouster by the
21 Seleka just about 10 years later. Konate, Ngaikosset, Dedane, Koudemon,
22 you've heard all those names.

23 One *ex-libérateur* is sitting right here in the courtroom, and that's Alfred
24 Yekatom. Another, Maxime Mokom isn't, but you've heard a great deal of
25 evidence about him in this case.

1 After the Seleka took Ndele on 10 December 2012, setting the stage for its final
2 advance on Bangui, Bozizé tried to organise a resistance. He gave speeches to
3 drum up support for his failing regime. And you have those in evidence.
4 The speeches portray Muslims as foreigners and sow the seeds for suspicion
5 and ethno-religious division. You have the speeches of Bozizé and his close
6 supporters doing the same thing, such as Steve Yambeté, Levy Yakete, whose
7 youth groups were active in and around Bangui. You also have the speeches
8 of Mr Ngaïssona.

9 You will no doubt recall those speeches and you will have no doubt that they
10 lent -- that he lent himself to the cause through his considerable influence over
11 the youth in the Central African Republic.

12 The Anti-Balaka emerged in response to the Seleka's brutal rule. There is no
13 question about it. They committed violence and atrocities throughout their
14 rule. And while the members came from various groups, the Anti-Balaka did,
15 including pre-existing self-defence groups, they were united by their hatred for
16 the Seleka and for the violence and devastation that it inflicted.

17 Contrary to the Defence's assertions, the Anti-Balaka were a clearly identifiable
18 group, not just for that reason, but by an abiding and committed search for
19 retribution against the Seleka and anyone associated with it, or perceived to
20 have supported it, and that is, the Muslims.

21 They were instrumentalised by Bozizé in the plan he and members of his inner
22 circle devised to reclaim power, which they elaborated after the 24 March coup,
23 from Cameroon, the Democratic Republic of the Congo, and France.

24 So, along with pre-existing self-defence groups, the Anti-Balaka came to
25 incorporate members of Bozizé's *Kwa Na Kwa* party - KNK, members of

1 Bozizé's inner circle, his family, and government and presidential guard, and
2 the FACA. As well as the two youth groups you can see indicated here:
3 COAC and COCORA.

4 In Cameroon, Bozizé and his inner circle, the FACA, the presidential guard,
5 and key figures planned his return to power. Among those involved in
6 developing that plan was Bernard Mokom, Mr Ngaïssona, Louis Oguere
7 Ngaikoumon, Levy Yakete, Joachim Kokate, Steve Yambete.

8 They sought to mobilise support among the youth in CAR, in order to enhance
9 the capacity of the Anti-Balaka to carry out military operations to face the
10 Seleka.

11 As the evidence shows, Ngaïssona facilitated those efforts. He gave
12 instructions. He kept apprised of developments on the ground in Bangui and
13 coordinated with persons there.

14 In DRC, several *ex-libérateurs* and Bozizé loyalists fled to Zongo after the 24
15 March coup. Among them, Maxime Mokom, who acted as the *de facto*
16 Anti-Balaka coordinator. He secured money, weapons and ammunition,
17 organising the deployment of Anti-Balaka elements, and provided instructions
18 on when and where to attack.

19 P-0446, who was in Zongo with him, described Mokom's central role in
20 coordinating the Anti-Balaka.

21 You have it on the screen in front of you. This is his evidence:

22 (Interpretation) "[...] no other person would call and issue the orders. It was
23 only him [Mokom]", "[...] he was the only one coordinating, before the attack
24 and after the attack as well."

25 (Speaks English) "[...] no other person would call and issue orders. It was

1 only him [Maxime Mokom]", "[...] he was the only one coordinating before the
2 attack [of 5 December] and after the attack as well."

3 As you know, Mokom would become the Anti-Balaka's national coordinator
4 for operations under Ngaïssona, and he remained nearly throughout 2014 in
5 that position.

6 In Zongo, there were also members of Bozizé's former presidential guard,
7 loyalists and FACA. Some would become key members of the National
8 Coordination as well.

9 In Zongo, Yekatom was also there.

10 You hear from his own -- hear it from his own mouth just this moment.

11 (Viewing of the video excerpt)

12 THE INTERPRETER: [10:32:17](Interpretation of the video excerpt)

13 "Where did you go when he arrived?

14 Well, when he arrived ... we left, I was arrested and then we fled to Zongo.

15 Over in former Zaire. And it was over there that we thought up the idea of
16 relaunching our -- our movement, in a military fashion."

17 MR VANDERPUYE: [10:32:43] In France, Bozizé assembled his inner circle,
18 including Ngaïssona, in late July and early August 2013, where they
19 established the *Front pour le retour à l'ordre constitutionnel en Centrafrique*,
20 FROCCA.

21 The group's founding document, the protocol agreement, recovered from
22 Ngaïssona's email account, confirms its purpose and his role.

23 Here you can see a copy of it, I know that it's small, and you've seen it before.

24 It contains, among other things, a strategic plan. In that strategic plan, it
25 provides for certain action to be taken, including setting up a flexible

1 coordination capable of fast and efficient strategic action.

2 On the far right of the slide, you can see Ngaïssona's designated role in that

3 group, indicating that he is to be the *Responsable des Affaires Interieures*

4 (Interpretation) responsible for internal affairs and associations.

5 (Speaks English) Your Honours, you've seen the several FROCCA

6 communications disseminating anti-Muslim animus, and disinformation, and

7 which fanned the flames of ethnic division and hatred of Muslims collectively

8 for the Seleka's crimes.

9 There is no evidence that Ngaïssona ever attempted to disown or distance

10 himself from FROCCA's actions or its words.

11 Instead, the evidence is that he went about fulfilling his assigned role in the

12 group. And I refer you to CAR-OTP-2124-0002 and 0003. This is an email

13 setting out the roles of FROCCA members.

14 FROCCA's very existence was to return Bozizé to power by all means. The

15 testimonies of P-801, P-2625, P-1847, and others confirms this, as well as

16 contemporaneous social media records, and emails, including those involving

17 Ngaïssona and Ngaya, P-808. These are referenced in our brief.

18 By September 2013, the Anti-Balaka was engaged in organised hostilities

19 against the Seleka in western CAR. In the course of these hostilities, they

20 carried out retributive violent attacks against Muslim civilians.

21 As this next series of slides illustrates, self-defence groups were organised and

22 enlisted, beginning in Bouar, Bozoum, and Bossangoa. They were led by

23 Achille Godonam, Dedane Danboy, Richard Bejouane, Adamou Ndale, among

24 others.

25 The border areas were also reinforced. They were reinforced in preparation

1 for the Anti-Balaka's attacks at Garam-Bouläï, Amada-Gaza, and in Berberati.

2 They were led, among others, by Rocco Mokom, Telesphore Mokom, Aaron
3 Oulibona, and Chrysostome Yapele - Chiki Chiki - among others.

4 The FACA were mobilised in Cameroon to support operations at the border,
5 from Yaoundé, Bertoua, and Garoua-Bouläï. Armel Emtenou, a relative of
6 Bozizé; Emmanuel Ngboya, colonel; Tandor Lamkague, were involved in
7 organising and leading them.

8 There was also mobilisation and coordination in Bangui and in Zongo. Here
9 you can see the key leaders and actors, including Maxime Mokom and
10 Captain Ngremangou, Ngaikosset. Ngremangou was in Boeing, as you may
11 recall.

12 The politico-military leadership of the Anti-Balaka was also directed, and it
13 was directed from Cameroon, and involved many of Bozizé's inner circle and
14 supporters. There you can see Ngaïssona, among others.

15 Starting in Bossangoa, the Anti-Balaka's attacks engulfed Bouca to the east,
16 spread to the south to Bossemtélé, Bossembélé, and then Boali.

17 Although disbanded by decree on 12 September 2013, ex-Séléka forces
18 continued to engage in hostilities with the Anti-Balaka.

19 These are what the group's attacks looked like in western CAR before 5
20 December. These depict the locations where those attacks occurred.

21 They were of such intensity that they engendered serious trepidation and
22 concern for the country's future among the international community.

23 Laurent Fabius, who was the French foreign minister, voiced his genuine
24 concern at the time.

25 Have a listen.

1 (Viewing of the video excerpt)

2 THE INTERPRETER: [10:38:12] (Interpretation of the video excerpt)

3 "[...] hundreds killed in Bossangoa and Bouar. There have been attacks in
4 Bangui.

5 [...] I would say that we are on the verge of genocide."

6 MR VANDERPUYE: [10:38:30] Between 5 December 2013 and 14

7 January 2014, when Ngaïssona returned to Bangui, in addition to the

8 Anti-Balaka's seminal attack on Bangui and its coordinated attack on

9 Bossangoa, the Anti-Balaka attacked Beloko, an operation implicating

10 Mr Ngaïssona.

11 Following Djotodia's resignation, the Seleka -- and the Seleka's retreat to the

12 north and east of the country and the installation of a new transitional

13 government, the Anti-Balaka's violence did not stop. In fact, after Ngaïssona's

14 return to Bangui, their attack of the Muslim population in western CAR

15 intensified.

16 And here's what it looked like in blue, on the screen in front of you.

17 Boda, Berberati, Guen, Carnot, Yaloké, Gaga, Bossempaté, all attacked. The

18 Seleka's withdrawal left the Muslim population unprotected and exposed to

19 escalating sectarian violence by the Anti-Balaka. In addition to the western

20 provinces, Muslim civilians were targeted in Bangui, Boeing, Bimbo, and along

21 the PK9-Mbaiki axis controlled by Yekatom's group.

22 Their targeting involved attacks against the civilian population, summary

23 executions, killings, mutilations, torture, cruel treatment, sexual offenses,

24 destruction of Muslim property and religious buildings, mosques, routine

25 pillaging of Muslim houses and shops and persecution.

1 By February 2014, nearly all Muslim neighbourhoods in Bangui, with the
2 exception of PK5, an enclave to which the Anti-Balaka laid siege, had been
3 cleared of their inhabitants. NGOs were struggling there and elsewhere.

4 This next slide is a clip that is shot in Mbaïki in early 2014.

5 (Viewing of the video excerpt)

6 "JM: [Voice-over] Tammi is trying to persuade the priest to look after the
7 people in his church. That's if they can even get them there. Without
8 protection from peacekeepers, any Muslims caught passing through
9 Christian areas will most likely be massacred.

10 JM: Is this case unique?

11 TS: No. We believe there may now be an estimated 22,000 people that are at
12 risk, that are spread throughout that whole western --

13 JM: And these are Muslims ...

14 TS: ... part of the country ... Primarily, yeah."

15 MR VANDERPUYE: [10:41:17] In March 2014, Bangui's original population of
16 around 130,000 had been reduced to about 900. Most of western CAR's
17 Muslim population had sought refuge or been evacuated to Chad or
18 Cameroon.

19 By August 2014, some 70,000 Muslim refugees had been received in Chad and
20 over 120,000 in Cameroon. By then, some 20,000 - you heard 22,000 in this
21 clip - 20,000 displaced Muslims were confined in nine major enclaves in
22 western and central CAR. Bear in mind that the Muslim population in CAR
23 only amounted to around 750,000 people, as 15 per cent of the country's total
24 population at that time.

25 It bears reminding that crimes like displacement, forceable transfer and

1 deportation, and the severe deprivation of liberty committed by the
2 Anti-Balaka continued into and throughout 2014, even well beyond.
3 The Anti-Balaka was a structured group before and after 2014. The evidence
4 demonstrates that the Anti-Balaka was structured and organised even before
5 its formal structuring took place in January 2014, during the course of the
6 ongoing Article 7 attack against the Muslim population and while its crimes,
7 such as deprivation of liberty and persecution in Bossangoa and Bangui
8 continued, as well as crimes committed by Mr Yekatom's group.
9 You have seen several documents demonstrating the formal organisation of the
10 group, and I'll just remind you of a few.
11 Here, you can see the communication, *Communication Conjoint*. It is the
12 initial iteration of the Anti-Balaka coordination. Here, you can see a
13 *Declaration des Combattants Antibalaka*, listing several members of the
14 Anti-Balaka coordination. This one is from February 2014. You can see here,
15 a *Communiqué de Presse no. 07*, a similar document also issued by the
16 Anti-Balaka, in March, I believe this one is, 2014.
17 And now you can see a list of ComZones and you have seen -- you have the
18 document, you know that there were many indeed, close to 100, if not more.
19 Before January 2014, contrary to the Defence position, the Anti-Balaka was
20 organised within the meaning of Article 8(2)(f). The group's ability to engage
21 the Seleka already by September 2013 alone makes that clear. Moreover, the
22 violence that the Anti-Balaka inflicted on the Muslim population was not
23 merely sporadic or isolated, but organised, unrelenting and protracted. As
24 you know, the conflict warranted several external peace initiatives, such as that
25 at Brazzaville in July 2014, in Nairobi at the end of the year. It attracted the

1 attention of the UN, as I mentioned, and that's reflected in several resolutions,
2 and the profound concerns expressed by its officials, such as Adama Dieng and
3 John Ging, and others within the international community regarding its
4 intensity and scale. Those concerns were there because the unrestrained
5 consequences of the Anti-Balaka's organisational policy was obvious. That
6 policy was one which Ngaïssona helped foster through his several enumerated
7 contributions, and one that Yekatom implemented through his essential
8 contribution to his common plan, which resulted in the crimes that they
9 committed in his area of responsibility.

10 With that, your Honours, we'll proceed with our further presentations, with
11 your leave.

12 PRESIDING JUDGE SCHMITT: [10:45:43] Of course, thank you,
13 Mr Vanderpuye.

14 MS STRUYVEN: [10:46:07] Your Honours, the evidence in this case proves
15 beyond a reasonable doubt that Mr Ngaïssona is criminally responsible for the
16 Anti-Balaka crimes committed in its attacks in Bangui and Bossangoa on 5
17 December, and their aftermath, including along the PK9-Mbaiki axis.

18 The evidence has shown that throughout the critical events that transpired
19 during the CAR crisis, Ngaïssona sought to regain power for Bozizé but also,
20 by extension, for him personally. The actions he took to realise this aim over
21 the time were numerous, continuing and varied.

22 Let me start by noting two points: First, the evidence rejects the Defence's
23 assertion that Ngaïssona was not even remotely involved with the Anti-Balaka
24 before his return to Bangui on 14 January 2014. He plainly was and criminally
25 so.

1 Second, the evidence equally rejects the Defence's suggestion that upon his
2 return, Ngaïssona sought to establish peace. To the contrary, Ngaïssona
3 impeded international forces and a transitional government from effectively
4 stopping the Anti-Balaka's violence. He misled them, he publicly denounced
5 their actions, while promoting the Anti-Balaka ideological objectives,
6 encouraging its members and justifying their conduct, aware of their past
7 crimes and, importantly, all while their attack continued to rage.

8 The evidence is clear. From the moment Bozizé's regime was in danger,
9 Ngaïssona helped to first mobilise and later structure, finance and equip the
10 Anti-Balaka to reclaim power. Ngaïssona was a man of considerable means in
11 CAR. He was influential, a successful businessman, national football
12 federation president, and the minister of youth.

13 He used his stature not for peace, but to mobilise support. He willingly took
14 part in the disinformation and anti-Muslim rhetoric disseminated by Bozizé
15 and those close to him. He then watched the Anti-Balaka target the Muslim
16 civilian population until it was virtually gone.

17 Ngaïssona intended exactly what he did. He knew and understood the
18 natural and foreseeable consequences of his many actions in respect of the
19 Anti-Balaka. He intended them and they contributed to the commission of
20 the group's crimes.

21 Ngaïssona's contributions went to fundamental elements of the Anti-Balaka
22 crimes. They affected the subjective aspects of their commission, including
23 the policy of vengeance which fueled the group, as well as the objective aspects,
24 including money, ammunition, weapons and coordination.

25 In the confirmation hearing, the Pre-Trial Chamber held that Ngaïssona

1 contributed to the commission of the charged crimes in four ways: By taking
2 steps to structure the Anti-Balaka; by financing the Anti-Balaka, including for
3 the purchase of weapons; by issuing instructions to the Anti-Balaka, including
4 in relation to the 5 December attacks and the attacks preceding it; and by
5 liaising with Anti-Balaka members exercising key functions, including Bernard
6 Mokom and Maxime Mokom.

7 Given that these contributions overlap factually, I will address them jointly and
8 chronologically.

9 Let me start with the lead-up to the 24 March 2013 Seleka coup. Once the
10 Seleka attacked Ndele on 10 December 2012, it became clear to Bozizé and to
11 those within his close circle that their days were numbered. They faced an
12 existential threat to their power. It was clear that the FACA would no longer
13 withstand another Seleka offensive and, moreover, foreign support was to no
14 avail. Bozizé's only choice was to mobilise the youth so that they would fight
15 and defend his regime.

16 As the Seleka were mainly a Muslim coalition, he resorted to nationalistic
17 appeals, vilifying Muslims, pitting them against what he considered real
18 Central Africans.

19 In truth, the Seleka coalition mostly comprised Central Africans. While the
20 evidence shows that there were foreign mercenaries enlisted within the group
21 that had links to Chad and Sudan, the Seleka's members and leadership were
22 by and large Central Africans.

23 As the Defence indicated in their submissions, "Seleka" means "alliance" in
24 Sango -- not in a foreign language, but in Sango. On 27 December 2012,
25 Bozizé delivered a powerful speech to the KNK supporters, the KNK youth, at

1 a rally held at the *Place de la république*.

2 Contrary to the Defence's claim that Bozizé did not refer to Muslims in his
3 speech, he did, and his audience understood his message, one that stoked fear
4 of and engendered ethno-religious animus towards Muslims, one that falsely
5 portrayed his political opponents as a product of a foreign Muslim invasion.

6 As you have heard, Bozizé's speeches in the lead-up to the coup blurred the
7 line between Seleka combatants and Muslims, equating the Seleka with Islam
8 and painting Muslims as foreigners, even those living in CAR for generations,
9 a country they rightly considered was also theirs.

10 Here is what he said on 27 December 2012, and I quote in French:

11 (Interpretation) "They're all foreigners. There's no Central African among
12 them. They don't speak Sango and they don't speak French."

13 (Speaks English) He added:

14 (Interpretation) "Be careful in the various neighbourhoods; keep an eye on
15 foreigners above all, foreigners who lived in fenced compounds. They often
16 hide people in their compounds. They're waiting for total chaos before
17 coming out and taking action, to kill people. Kill people. Kill people.

18 Check out the neighbourhoods around the fenced compounds, around the
19 properties with buildings, properties owned by foreigners. Watch out and
20 view what is happening."

21 (Speaks English) Bozizé called on the youth to take up arms against the enemy
22 and prepare to die. He said:

23 (Interpretation) "Rise up. Don't stay in the bush. Leave. Arm yourself with
24 bows, knives, anything that you can use. Say that you're angry, that you're
25 ready to die, that you're ready to die, that you are ready to die."

1 (Speaks English) Yakete speak at the rally too implying that the Muslims were
2 traitors -- *des Judas*. He exhorted support for Bozizé invoking the refrain "*la*
3 *patri ou la mort*".

4 THE INTERPRETER: [10:54:35] "Motherland or death".

5 MS STRUYVEN: [10:54:37] "*La patri ou la mort*" is a slogan that comes back
6 over and over again.

7 To organise the youth efficiently, two militias linked to the KNK had been
8 formed -- COCORA and COAC, led by Yakete and Yambete respectively, who
9 would both participate, as you know, in the planning of the 5 December
10 attacks.

11 At a rally, Yakete confirmed the COCORA's youth's preparedness to support
12 the regime, committing and to patrolling every district in Bangui and to
13 expand its presence in every single province -- in every single province.

14 Contrary to what the Defence argues, the rhetoric was shared in every single
15 province.

16 Days later, on 31 December 2013, Bozizé repeated this rhetoric, stating that
17 CAR had become two countries -- one belonging to the Janjaweed and the
18 other one to the *les vrais Centrafricains*.

19 Let there be no confusion, contrary to the Defence's submissions, the youth
20 were not mobilised to demonstrate or for a peaceful resistance; they were
21 brought in to fight.

22 As Yakete put it, and I quote in French:

23 (Interpretation) "And that's why we call upon you, the youth of Central Africa,
24 to not be afraid. If you have to die, well, then you have to die. Die for your
25 country. Die for your freedom. Die for your little brothers. Die for the

1 future of your children. Die for the future."
2 (Speaks English) The youth were brought in to fight not just the Seleka, but
3 Muslims, as their presumed supporters, harbourers and accomplices.
4 Ngaïssona joined in their efforts.
5 On 4 January 2013, he conveyed the message stating that:
6 (Counsel confers)
7 MS STRUYVEN: [10:57:06] Instead, I'll just read it out.
8 On 4 January, he conveyed a message stating that:
9 (Interpretation) "The enemies of the nation have decided to cause trouble,
10 bringing in Sharia with a view to preventing the various religious confessions
11 to go about their business in a normal way. Some people want to use
12 Islamism to destroy the country."
13 (Speaks English) Days later, on 6 January 2013, Ngaïssona asserted that
14 foreigners were coming to kill Central Africans. This is what Ngaïssona said:
15 (Interpretation) "People of Central Africa, these people who are coming, they
16 don't know you. They never say, 'You're my brother and, as I'm a member of
17 the rebellion, I'll save you.' No. They'll never do that. They are coming in
18 as foreigners. They want, first and foremost, to kill you. It's not Central
19 Africans who have done those things. I believe that it's foreigners who are
20 mixing in with Central Africans to do what they want. It's they who are
21 destroying everything in their wake."
22 (Speaks English) In his address, as you will see, Ngaïssona also explicitly
23 mentions that he was consulting with members of COCORA, which contradicts
24 the Defence's suggestion that he had nothing to do with COCORA. And I
25 refer specifically to CAR-OTP-2135-3392, at 3394, line 22.

1 Your Honours, it was a false narrative that Ngaïssona was spreading.
2 Ngaïssona knew that. Nevertheless, he continued.
3 In an 11 January 2013 radio interview, Ngaïssona thanked his audience for
4 their support to President Bozizé and reiterated again, and I quote in French:
5 (Interpretation) "The Central African Republic must not be invaded by
6 foreigners."
7 (Speaks English) The CAR, Ngaïssona said, was their country.
8 He did the same in a message broadcast on 14 January 2013, praising Bozizé as
9 the messiah of CAR and affirming his unshakeable support for his leadership.
10 The hate speeches, and there were many, were widely disseminated and
11 discussed in the CAR media to the point that a local newspaper made
12 a comparison with *Radio Milles Collines*.
13 The rhetoric left no doubt that Muslims were to be considered foreigners, not
14 real Central Africans. The deliberate conflation of Muslim civilians and the
15 Seleka as foreigners and accomplices was meant to and led to a violence and
16 rage that you can see in the ranks of the Anti-Balaka.
17 Despite Ngaïssona Defence's attempt to portray the speeches as legitimate and
18 peaceful, at least 11 witnesses confirmed that Bozizé's speeches, echoed by
19 members of his inner circle, including Ngaïssona, were not only aimed at the
20 Seleka, but also understood as collectively targeting Muslims who were
21 perceived to support the Seleka.
22 As the MINUSCA and OHCHR mapping report shows:
23 "Towards the end of 2012, when Séléka launched its war against the
24 Government, Muslims were suspected by pro-Bozizé [forces or] elements of
25 supporting the Séléka and [they] became the targets of serious human rights

1 violations, including extrajudicial executions. In addition, the final months of
2 the Bozizé Government saw a sudden surge in hate speech by its acolytes,
3 especially against Muslims and/or people of Chadian origin."

4 Ngaïssona was one of those acolytes and he was intelligent enough to know
5 that the rhetoric in which he personally took part would have that effect -- the
6 effect of having fundamental human rights violations against the Muslim
7 population. The evidence before you shows that he did.

8 Militias with close ties to Bozizé and the KNK, including COCORA and COAC,
9 armed with machetes and AK-47s erected barricades and checkpoints
10 throughout Bangui and Bimbo, including Ngaïssona's Boy-Rabe stronghold.
11 Their goal to defend Bozizé's regime encompassed not only stopping the Seleka,
12 but also targeting its perceived supporters.

13 The youth militia's witch hunt in and around Bangui was open and notorious.
14 In several instances, they detained, searched and arrested Muslims, some of
15 which were never seen again. Their actions were widely covered in the local
16 media at the time.

17 Their conduct was a limited preview of what the Anti-Balaka, once fully
18 established with Ngaïssona's assistance, would ultimately do.

19 PRESIDING JUDGE SCHMITT: [11:02:29] I think it would be a good --

20 MS STRUYVEN: [11:02:32] Yes, thank you.

21 PRESIDING JUDGE SCHMITT: Yeah -- a good idea to have a break now.

22 Break until 11.30, please.

23 THE COURT USHER: [11:02:36] All rise.

24 (Recess taken at 11.02 a.m.)

25 (Upon resuming in open session at 11.34 a.m.)

1 THE COURT USHER: [11:34:34] All rise.

2 Please be seated.

3 PRESIDING JUDGE SCHMITT: [11:34:53] The Chamber suggests that we
4 shorten the lunch break, so we will have the lunch break normally as from
5 1 o'clock to 2 o'clock.

6 Ms Struyven, you have the floor.

7 MS STRUYVEN: [11:35:07] Thank you very much, Mr President.

8 Your Honours, between the members of Bozizé's inner circle, including
9 Ngaïssona, Yakete, Yambete, Oguere and others, like Ndangba, you have over
10 30 speeches, or radio addresses, between 27 December 2012 and 24 March.

11 The rhetoric used, speech after speech, was designed to marginalise and
12 denigrate Muslims.

13 After another speech on 8 March 2013, in which Bozizé publicly questioned
14 whether the Seleka were really Central Africans, on 13 March 2013, he was
15 asked whether there was a risk of the crisis degenerating into a religious
16 confrontation given that the Muslim population already felt stigmatised.

17 In his response, Bozizé admitted being aware that such a risk existed.

18 Yet, two days later, on 15 March 2013, Bozize addressed his constituency, in
19 Ngaïssona's presence, repeating the same discourse, portraying the Seleka as
20 foreigners that had come to kill them, among other. Bozize urged the
21 authentic CAR youth, the KNK youth, to fight and defend their country. It
22 was a question of life or death. Also, Ngaïssona took the floor. He publicly
23 endorsed Bozize's rhetoric and explicitly reaffirmed the youth's willingness to
24 defend the country.

25 He said:

1 (Interpretation) "That's why they have never spared their efforts to mobilise, to
2 defend their imperilled homeland. Now, our youth wants to be dynamic and
3 enterprising, ready to deploy to defend our country, side by side with your
4 Excellency."

5 (Speaks English) A few days later, on 22 March 2013, Ngaïssona had Yambete
6 deliver his message to the youth on his behalf.

7 He said:

8 (Interpretation) "'Wait until you are told that your life is in danger. At that
9 point in time, you can do what you want, whatever you want.' He also said
10 'Simply remain calm where you are. When you are needed, we will call on
11 you.'"

12 (Speaks English) The anti-Muslim rhetoric and disinformation that Ngaïssona,
13 along with others in Bozize's inner circle, promoted and legitimised found its
14 way into the ranks of the Anti-Balaka, as my colleague has explained this
15 morning.

16 Ngaïssona's endorsement and support of Bozize, the KNK, their rhetoric and
17 his own speeches helped to legitimise it. His willingness to lend himself to
18 mobilising the youth also made him essential to the Anti-Balaka movement.

19 Let me move to the next period.

20 After 24 March 2013 coup, Ngaïssona fled to Cameroon, where he participated
21 in meetings organised by Bozize, with members of the former government, the
22 KNK, former presidential guards, and loyal FACAs.

23 Their resolve was to return to power at whatever cost.

24 The plan consisted in developing a military capacity to challenge the Seleka by
25 mobilising the youth, by mobilising pre-existing self-defence groups, and by

1 bringing them together with former presidential guards and loyalist FACA
2 members. There is ample evidence, including from P-1847, P-0801 and P-2625,
3 on these meetings.

4 That the plan encompassed military force is clear.

5 Just as an illustration, you will remember D30-4679's Facebook message of
6 27 April 2013 in which he says -- he asks his interlocutor:

7 (Interpretation) "The president has tasked me to ask you if you could send us a
8 dozen military trainers for all aspects of combat and that straightaway."

9 (Speaks English) It makes sense, your Honours, the youth and the self-defence
10 groups that they intended to mobilise would need training.

11 That Bozize's inner circle expressed the same anti-Muslim rhetoric is equally
12 clear, from amongst others, P-0801 and P-2625, but also from the numerous
13 private Facebook messages amongst members of the group, including those
14 who had attended the meetings.

15 And, again, just as an illustration, let us have a look at a conversation of
16 24 May 2013, also involving D30-4679 who we just saw had asked for military
17 equipment.

18 In the conversation they discuss:

19 (Interpretation) "Yes, I'm telling you that it's total anarchy. Basically, it's likely
20 to turn into a religious war."

21 "Answer: It's already one. The Christians are ready and waiting for them."

22 "Answer: Yes. I'm telling you, those Muslims are going to get it ... I don't
23 know why the president didn't fuck them when they were still in government."

24 (Speaks English) I'll show you one other example of one of the participants in
25 the meetings who would later be invited by Ngaïssona to attend a meeting in

1 Yaounde.

2 The interlocutor is -- one of the two says:

3 (Interpretation) "I'm telling you there's none of them in Bangui. They're
4 speculating only. The Muslims are already gone. There's only a few left."

5 (Speaks English) And the person who attends the meeting says:

6 (Interpretation) "Oh, really? They know we're going to kill them all. That's
7 why they're leaving the country."

8 (Speaks English) In parallel to the activities in Cameroon, members of Bozize's
9 inner circle in Zongo and in Bangui - namely, Maxime Mokom, Charles
10 Ngremangou and Prince Lakouetene - with whom Ngaïssona would later liaise,
11 joined in their plan to return to power.

12 As detailed in our closing brief, from Zongo, Maxime Mokom joined in the
13 group's plan, and organised and coordinated some 2,000 elements of
14 self-defence groups and new recruits in Gobere, near Bossangoa. FACAs,
15 presidential guards and non-military chiefs led them. Collectively, they
16 would become known as the Anti-Balaka, the perpetrators of the charged
17 crimes.

18 Numerous witnesses testified that Maxime Mokom coordinated the
19 Anti-Balaka's operations and secured money, weapons and ammunition for the
20 group. You have seen the testimonies of P-0889, 2232, 0446, 0884 and 0992,
21 and many others.

22 Contrary to the Defence's assertion that the evidence on Mokom's interactions
23 with the Gobere group are inconclusive, CDRs corroborate Maxime Mokom's
24 coordinating role, reflecting over 600 contacts with Dedane, his *de facto* deputy,
25 between 7 August and 18 December 2013 alone.

1 They also show his substantial contacts between September and
2 December 2013, over 450 contacts, with the Anti-Balaka leaders and chiefs of
3 the 5 December attacks in Bangui and Bossangoa.
4 Let me briefly describe Ngremangou's role.
5 Ngremangou also joined the plan. He recruited and organised FACA's
6 support of the Anti-Balaka in Bangui. He coordinated their actions and was
7 in charge of logistics, including the provision of weapons and ammunition.
8 You have before you testimonial evidence, but also emails, as early as
9 May 2013 in which Ngremangou shares lists of the available FACA, including
10 Yekatom, as well as military intelligence with Yambete, Eugene Ngaikosset
11 and Edia Emtenou.
12 Ngremangou's liaising with Maxime Mokom is confirmed by CDRs, showing
13 over 80 contacts between September 2013 and December 2013. Ngaïssona
14 would later, as I will explain later, also liaise with Ngremangou.
15 Prince Lakouetene, on the other hand, also joined, acting as an intermediary
16 with the soldiers in Bangui and in the field. He was involved in the
17 preparation of Anti-Balaka military operations and updated members of
18 Bozize's inner circle on the Anti-Balaka deployments and the availability of
19 military equipment.
20 The testimony and evidence in this case shows his intensive liaising with
21 Maxime Mokom, Bernard Mokom, Bozize and Francis Bozize before turning to
22 Ngaïssona. For example, CDRs confirm more than 400 contacts with
23 Maxime Mokom between June 2013 and 5 December 2013, as well as regular
24 contacts with Bozize and Francis Bozize.
25 At the end of June 2013, members of the core alliance, including Bozize,

1 Ngaïssona, Yakete, Ougere, Francis Bozize, Lin Benoukepa and others,
2 established FROCCA. FROCCA advocated Djotodia's removal by force.
3 That FROCCA's mobilisation efforts were aimed towards orchestrating a
4 militarised campaign is absolutely clear. It is established not only by its
5 founding document, the evidence of P-0801, P-2625 and P-1847, but also by
6 documentary evidence. Just to give you an example, in a recorded interview
7 of Bozize, regarding FROCCA, on 7 August 2013, he confirmed the group's
8 contacts with some FACA in hiding and conceded, when questioned about
9 taking up arms, I quote:

10 (Interpretation) "I don't rule anything out."

11 (Speaks English) FROCCA promoted the false threat of Islamisation to sow the
12 seeds of ethnic division and popular animus against the Muslims in order to
13 mobilise support.

14 Your Honours have seen the first press release -- their first press release of
15 5 August 2013 that refers to, and I quote in French, (Interpretation) "A horde of
16 Chadian Sudanese rebel Islamists" (Speaks English) who invaded the CAR. It
17 also targets the Muslims, seen as their accomplices, stating that (Interpretation)
18 "Right now in the Central African Republic it's a triumph for the foreign
19 backers and their local accomplices."

20 (Speaks English) The second press release, published on 16 August 2013, refers
21 to, and I quote in French, (Interpretation) "forced Islamisation of the Christian
22 population of our country, as well as the banning of eating pork."

23 (Speaks English) In short, FROCCA simply continued Bozizé's blueprint for
24 mobilising support through anti-Muslim rhetoric and which had equally been
25 expressed during the meetings in Cameroon. In a letter to the French

1 authorities, Yakete confirmed that FROCCA was indeed created simply, and I
2 quote in French, (Interpretation) "to continue on the awareness-raising work
3 that had begun in Yaounde".

4 (Speaks English) Ngaïssona, like other FROCCA members, knew that this
5 narrative was false. P-2625 testified that FROCCA members knew that there
6 was no Islamisation taking place and that the group used a false narrative to
7 advance its objectives.

8 He confirmed Ngaïssona's willing participation in meetings in which their
9 tactics to manipulate the non-Muslim population were discussed. He noted
10 that Ngaïssona never objected to or complained about the several
11 inflammatory FROCCA press releases.

12 While the Defence suggests that Ngaïssona played no role in FROCCA, the
13 evidence before you shows the opposite.

14 For example, Ngaya testified that all his contacts with FROCCA went through
15 Ngaïssona. Whether under the banner of FROCCA or simply in view of
16 reclaiming Bozize's power, Ngaïssona coordinated popular insurrections with
17 the group's military operations of which he was aware.

18 I refer your Honours to a 31 July 2013 email conversation between Ngaïssona
19 and Ngaya. In the conversation Ngaïssona asks Ngaïssona -- Ngaya asks
20 Ngaïssona to propose a date to start their popular insurrections, keeping in
21 mind the beginning of the military operations he - Ngaïssona - is organising.
22 You will find that in CAR-OTP-2130-3296.

23 Ngaïssona also mobilised his Bangui network to advance FROCCA's goals, as
24 illustrated by this message of 19 August 2013, in which you will see:

25 (Interpretation) "The old man asked that there be great clamour in the streets

1 and agitation when the oath was to be taken and the arrival of Deby. It's
2 Ngaïssona who would be responsible for coordinating the actions with his
3 network in Boy-Rabe."
4 (Speaks English) Again, these are just examples.
5 Moreover, Ngaïssona was fully aware of and involved in the distribution of
6 FROCCA's anti-Muslim rhetoric. You have seen Ngaïssona's email exchanges
7 with Ngaya in which Ngaïssona comments on an attachment entitled "*Appel*
8 *Patriotique*", (Interpretation) "Patriotic Hope", (Speaks English) and which
9 contains the usual anti-Muslim rhetoric.
10 You will find that document at CAR-OTP-2124-0004.
11 In addition to commenting on the document, Ngaïssona forwards it to other
12 FROCCA members.
13 But Ngaïssona didn't stop there.
14 The evidence shows that in addition to activating his network in Bangui and
15 coordinating civilian disobedience, in the weeks and months that followed,
16 Ngaïssona liaised with and helped mobilise and equip existing self-defence
17 groups, new recruits, as well as FACA and presidential guards.
18 Numerous witnesses - and you have the details in our closing brief, paragraphs
19 109 to 131 - confirmed Ngaïssona's coordinating role or aspects thereof before
20 5 December.
21 Their testimony is mutually corroborative and establishes two main facts:
22 One, that Ngaïssona, in close collaboration with Bernard Mokom, liaised with
23 various Anti-Balaka leaders on the ground; and, two, that he helped fund
24 them.
25 The witnesses testified that Ngaïssona liaised personally with the Anti-Balaka

1 chiefs in Bouar, Bossangoa, and Bouca, and around the Cameroonian border,
2 and that he gave direct orders and instructions by phone, including to the
3 military.

4 The witnesses also confirmed that Ngaïssona and Bernard Mokom liaised
5 regularly with Bozize, Bozize's sons and with Maxime Mokom, who reported
6 his activities to both of them.

7 Maxime Mokom's Facebook message of 13 January 2013 confirm his regular
8 contacts at least once a week with *"les vieux aux Cameroun"*, who the
9 interlocutor heard would arrive in Bangui shortly thereafter, so shortly after
10 13 January 2014. In other words, Ngaïssona and Bernard Mokom.

11 Furthermore, witnesses testified that after Bozize's departure from the Golf
12 Residence, from August 2013 onwards, Ngaïssona and Bernard Mokom
13 organised meetings with various KNK members, including Gbanga, Kpefio
14 and Gallaut, who had expressed the anti-Muslim rhetoric, both publicly and
15 privately, as well as with FACA members and chiefs, including Eugene
16 Ngaikosset, Yambete, Emmanuel Ngboya, Adamou Ndale and Achille
17 Godonam. Inevitably, they also liaised with Francis and Franklin Bozize, Eric
18 Danboy and others who stayed or resided at the Golf Residence.

19 All of these individuals were key to strengthening the Anti-Balaka's military
20 capacity and, by extension, its capacity to carry out the 5 December attacks, an
21 essential component of the group's strategy to reclaim power.

22 Their evidence could not be clearer as regards Ngaïssona's coordinating role
23 and, despite the Defence's position, Ngaïssona admitted as much.

24 As the Chamber will no doubt recall, P-0974 testified that in January 2014,
25 Ngaïssona himself told President Samba-Panza about having organised

1 meetings with ex-FACA from Cameroon. He told her about having been in
2 telephone contact with Anti-Balaka elements in the provinces at the birth of the
3 movement.

4 Also P-0808, with whom Ngaïssona was close, testified that when Ngaïssona
5 returned to Bangui, he realised that Ngaïssona knew the Anti-Balaka well and
6 that he had had prior links with the military members of the movement.

7 Many Facebook exchanges corroborate the testimonial evidence.

8 For example, contrary to the Defence's denial that Ngaïssona and Bozize were
9 close, in a conversation of 29 August 2013, the interlocutor expresses Bozize's
10 decision not to rely on experts but instead on Francis Bozize, Ngaïssona, Yakete
11 and Kokate to regain power.

12 And I refer to CAR-OTP-2102-4833 at 4933.

13 Likewise, a message of 4 November 2013 shows Yakete's frustration regarding
14 Francis Bozize's excessive liaising with Ngaïssona and Bernard Mokom,
15 despite that they are not military.

16 Yakete says: (Interpretation) "It's Francis' attitude that is feeding all that. He
17 is in constant contact with Mokom and Ngaïssona. He forgets that they are
18 not military men".

19 (Speaks English) Ngaïssona also financed the Anti-Balaka already well before
20 5 December 2013.

21 Numerous witnesses testified that Ngaïssona financed the Anti-Balaka both
22 directly and indirectly, including through Bernard Mokom and
23 Maxime Mokom.

24 For example, P-1847's testimony establishes that before the 5 December attacks,
25 several key Anti-Balaka leaders, such as Dedane, who is Mokom's deputy,

1 Azounou, stationed in Gobere, and Godonam and Ndale, who were at that
2 time stationed in Bertoua and Garoua-Boulai, received money from Ngaïssona,
3 Bernard Mokom and Marcelin Yaliminde.

4 P-1847 explained that the money was provided through intermediaries or
5 money transfer services (Interpretation) with a view to perpetrating attacks,
6 (Speaks English) or, in the case of Godonam, it was provided to deploy the
7 elements from Cameroon to fight in Bossangoa.

8 P-1847's testimony confirms that Ngaïssona, and I quote in French:

9 (Interpretation) "He checked and verified that the money he transferred to
10 combatants arrived at its intended destination and had been used for the
11 intended purposes, for example, procurement of ammunition".

12 Numerous witnesses independently corroborate P-1847's testimony. You
13 have in front of you on the record P-0884's testimony, P-1719 and P-2269 who
14 confirm that Ngaïssona sent money to or financed Anti-Balaka elements,
15 whether directly or indirectly.

16 You also heard P-2625 testify more generally about Ngaïssona informing
17 FROCCA members as early as August 2013 that he was financing the children
18 out in the field, meaning the Anti-Balaka. He was responsible for their
19 upkeep, he was handing out a lot of money for their upkeep.

20 In addition, testimonial and documentary evidence shows concrete examples
21 of Ngaïssona providing money or military equipment to Anti-Balaka elements
22 in Bouar, Bangui and Zongo; Ngaïssona funding the deployment of elements
23 from Cameroon to CAR; Ngaïssona promising to provide financial support to
24 the Anti-Balaka elements upon their participation in the 5 December attacks.

25 I will develop on them through my presentation.

1 By September 2013, the Anti-Balaka were operational.

2 Indeed, between 6 and 9 September 2013 and 17 September 2013, the

3 Anti-Balaka attacked Bossangoa and several other villages in the area,

4 including Bouca. You have on the record the testimony of multiple witnesses

5 who establish that Anti-Balaka ComZones Lebene, Andjilo, Kema and

6 Ndangba participated in the attacks which were led by Dedane under

7 Maxime Mokom's coordination.

8 Contrary to the Defence's submission that FROCCA's objectives were

9 diplomatic rather than military, FROCCA immediately and publicly claimed

10 responsibility over the attacks and conceded that they comprised a step

11 towards reclaiming power. You have seen the 9 September 2013 interview in

12 which Yakete confirmed that they were behind the attacks.

13 The evidence is clear, the Anti-Balaka targeted not only the Seleka, but equally

14 Muslim civilians. The attacks and the subsequent targeting of the Muslim

15 civilian population were extensively and contemporaneously covered in the

16 local and international media.

17 Unequivocally and unanimously they reported that pro-Bozize militia, also

18 referred to as Anti-Balaka or FROCCA, had targeted the Muslim population

19 killing Muslim families, destroying Muslim properties and forcing them to flee.

20 That the attacks were not a mere popular uprising, as the Defence argues, but

21 rather part of a planned strategy is clear from a 17 September 2013 Facebook

22 conversation that discusses the strategic reasons behind the attack; namely, to

23 attack as many villages as possible in the provinces, gain as much territory as

24 possible before the meeting of the General Assembly of the United Nations

25 scheduled the week thereafter, on 24 September 2013.

1 In the message you see:
2 (Interpretation) "I hear that it's really kicking off in Bossangoa."
3 (Speaks English) And in response:
4 (Interpretation) "That's not a surprise. After all, the objective was to gain
5 control over a large number of towns so that they would have a position of
6 domination before the meeting of the General Assembly of the United Nations.
7 Bouar will also be targeted as well as various other towns in the provinces.
8 The difficulties that are holding things up are due to logistics, but I believe that
9 the problem is currently being resolved.
10 (Speaks English) As you will see in my presentation, I will address Bouar right
11 after.
12 The evidence has shown that in the afternoon of 18 September, the Anti-Balaka
13 lost control over the city. In order to mobilise further support, FROCCA
14 immediately, the same day, issued a press release amplifying its prior false
15 narrative that the Seleka sought to forcibly Islamise the Central African
16 Republic and that they sought to introduce to the Koran.
17 Ngaïssona was fully aware of the Bossangoa attacks as well as the targeting of
18 the Muslim population.
19 In a 19 September 2013 email, two days after the second attack, he admits
20 having men on the ground. He says in French:
21 (Interpretation) "We have men manoeuvring in the field" (Speaks English)
22 asking urgently what Ngaya can do to (Interpretation) step up degradation in
23 Bangui" (Speaks English) and in other places.
24 Furthermore, P-2625 testified that Ngaïssona briefed other principals at the
25 FROCCA meetings on his interactions in the field with the presidential guards

1 stationed in Cameroon and with the elements in the areas of Bangui and
2 Bossangoa, explaining that his elements were determined and motivated to
3 fight the Seleka.

4 P-2625 also testified that Ngaïssona briefed him on the status of ammunition
5 and weapons and that Ngaïssona called Maxime Mokom to obtain updates on
6 the situation on the ground.

7 P-2625 further testified that it was common knowledge that Bozize and his
8 inner circle, including Ngaïssona, instrumentalised, organised and launched
9 the Anti-Balaka groups to attack the Muslims.

10 Moreover, the crimes were notorious, as I already mentioned. The former
11 French president, Francois Hollande, explicitly addressed the unfolding
12 atrocities in the UN General Assembly on 24 September 2013, stating:

13 "I would now like to issue a call of alarm [...] That alarm concerns the Central
14 African Republic, ... Chaos has now taken hold there. And once again,
15 civilians are its victims. We must put an end to these atrocities, which are also
16 linked to religions."

17 FROCCA member 2625 travelled to lobby for support at the UN General
18 Assembly session in New York, for which Bozize paid. There can be no doubt
19 that the events would have been discussed among the members of Bozize's
20 inner circle, as well as amongst FROCCA members.

21 P-2625 testified that because of decision -- because of Bozize's decision to
22 abandon a diplomatic solution altogether, he distanced himself from FROCCA
23 upon his return from New York.

24 Furthermore, numerous witnesses, including P-0884, D30-4848, confirmed that
25 from Cameroon everyone knew what was going on. Everyone was

1 monitoring the situation in CAR very closely, including through television,
2 radio, the media and social media.

3 P-0992 stated that Ngaïssona was well -- kept well informed of the situation in
4 CAR and also of the Anti-Balaka's progress on the ground, including their
5 commission of crimes.

6 Despite knowing the consequences of the Anti-Balaka attacks on Bossangoa, in
7 September and October, Ngaïssona continued contributing to strengthening
8 their military capacity.

9 Several witnesses, including P-0847, P-2673 and P-2841, testified that

10 Ngaïssona and Bernard Mokom visited Adamou Ndale and Achille Godonam
11 in Bertoua and Garoua-Boulai early September and again in mid-October 2013.

12 They also testified that Ndale and Godonam visited Ngaïssona and Bernard

13 Mokom in Yaounde. Ndale, as you may know, led a self-defence group

14 known as the Archers of Bouar, whereas Godonam led a self-defence originally

15 referred to as the Anti-Zaraguinas or Archers in the Bossangoa area. Having

16 fled Bossangoa to Garoua-Boulai sometime in July or August 2013, Godonam

17 continued deploying his elements to Bossangoa from there, in coordination

18 with Maxime Mokom and with the assistance of money provided by Ngaïssona

19 and Bernard Mokom.

20 Witnesses testified that the purpose of Ngaïssona and Bernard Mokom's visit

21 was to enlist Godonam Ndale's self-defence groups into the Anti-Balaka so that

22 they could reinforce the FACA and PGs stationed at the border.

23 P-2847 explains:

24 "Ngaïssona and Mokom *père* wanted to approach them to see if they could also

25 be used in the resistance. At the time, there were no Anti-Balaka in the

1 north-west of the country and the archers were contacted to join the
2 movement."

3 Ngaïssona and Bernard Mokom subsequently provide them with money,
4 medication, ammunition and Thurayas. Once they were properly equipped,
5 they were integrated into the ranks of the Anti-Balaka, and attacked Bouar on
6 26 October 2013 on Ngaïssona's and Bernard Mokom's orders.

7 As the evidence of shows, already in September 2013, Bozize's inner circle
8 intended to open a front in Bouar, and to use its airport to fly in additional
9 military equipment. Taking Bouar was strategically important to increase the
10 Anti-Balaka's military capacity, to disable the Seleka, in order to take over
11 Bangui.

12 Contemporaneous Facebook messages of members of Bozize's inner circle
13 corroborates the testimonies that I've just mentioned. Allow me to just show
14 you a few:

15 Here you see a message on 3 September in which the interlocutor asks:

16 (Interpretation) "All right, so things are becoming clear, and when is the boss
17 arriving?

18 I don't know, Ouapounaba is arriving on Sunday we'll see if he's with the boss,
19 Ngaïssona and [M]okom are in Bertoua and Garouaboulaye for the archers [o]f
20 Bouar."

21 (Speaks English) Or another one, that shows that a few weeks later, on

22 6 October, Bozize sent Ngaïssona with specific instructions on a mission

23 regarding "the means". (Interpretation) "The boss has sent Ngaïssona to us

24 with instructions but he has received Gbadora and Gbangouma today." Those

25 are two military soldiers.

1 "Kangara?

2 Yes.

3 [...] for a mission with means."

4 (Speaks English) The message of the next day specifies: (Interpretation) "It's
5 Ngaïssona who has arrived at Douala, Francis gave him €1500 for the men
6 here."

7 (Speaks English) These messages corroborate 2673 and 2841's testimony that
8 Bernard Mokom and Ngaïssona returned to the border in mid-October 2013 to
9 provide Ndale and Godonam's elements with ammunition, medication, and
10 Thurayas, as also other Facebook messages confirm.

11 For example this one, which is dated 14 October 2013, in which it says:

12 (Interpretation) "The old man Mokom has left with Ngaïssona in Bertoua and
13 for the border with ammunition and medicines for the archers of Bouar and
14 Beti, he won't be coming back here."

15 (Speaks English) Or this one on 23 October 2013: (Interpretation) "Yes, but it
16 would be better to attack as soon as possible."

17 Response: "Ngaïssona brought a lot of boxes yesterday and they will be
18 transported today, I believe that those are -- contains munition and Thurayas."

19 (Speaks English) On 26 October 2013 the Anti-Balaka carried out the Bouar
20 attack. P-1847, P-2673 and P-2841's testimony establishes that Ngaïssona and
21 Bernard Mokom ordered the attack. It is again corroborated by
22 contemporaneous Facebook messages. For example, this one on
23 4 November 2013 in which Yakete says: (Interpretation) "Ngaïssona and
24 Mokom told the Anti-Balaka who are simply our own people to attack Bouar,
25 to take the airport so that an airplane can come and bring supplies ..."

1 (Speaks English) In addition to the Seleka, your Honours, the Anti-Balaka
2 targeted the Muslim population as a whole, resulting in the deaths of at least 20
3 civilians and displacement of over 10,000 civilians.

4 P-2673 testified that Anti-Balaka elements in Garoua-Boulai were fuelled by
5 anti-Muslim animus and openly discussed it. He explained that the elements,
6 FACA and civilians alike, expressed their intention to take revenge on Muslims
7 for Seleka crimes, rehearsing that they could not be considered true Central
8 Africans.

9 Ngaïssona travelled regularly to Garoua-Boulai and Bertoua to liaise with the
10 FACA who had fled there, including their chief Ngboya. Their state of mind
11 could not have escaped him. Yet, the evidence shows that instead of stepping
12 back, Ngaïssona insisted on involving himself even further in the planning and
13 execution of Anti-Balaka military operations. P-2841 stated on the matter:
14 "Mokom and Ngaïssona wanted to keep the power in their hands, rather than
15 the military being in charge. I think there would have been less violence if
16 Kokate and the military were in charge, because they were professionals who
17 had been trained in the proper techniques of combat. They know how to
18 structure a plan, without resorting to *gris-gris* and such".

19 Again, contemporaneous Facebook messages corroborate the testimony. They
20 show that Bozize designated Kokate to organise military operations in
21 coordination with Ngaïssona, who would take charge only of the Anti-Balaka.
22 However, Ngaïssona's thirst for power made him act too fast, without Kokate.
23 For example, in this message you see:

24 (Interpretation) "My brother, Ngaïssona and his team have already carved up
25 the cake, they want Mokom to be governor of the palace."

1 (Speaks English) As you know, your Honours, in January, Ngaïssona will
2 actually ask for the position in ENERCA and SOCAPS and they will ask a
3 similar position for Bernard Mokom in the transitional government.

4 (Interpretation) "Bozize can't make the same error of putting everything in the
5 hands of his relations [...]. He knows the consequences.

6 Wait, he has told them that it is Kokate is responsible for the military
7 operations, and that it is they alone who have to take care of the Anti-Balaka in
8 coordination with Kokate, and they're messing up."

9 (Speaks English) Your Honours, throughout the months of October and
10 November 2013, Ngaïssona further assisted the Anti-Balaka in Zongo and in
11 Bangui, providing them with money, and by organising the provision of
12 military equipment.

13 P-2841 testified that Ngaïssona sent food and money to Maxime Mokom and to
14 Claude Ngaikosset in Zongo, to be dispatched to elements on the ground. He
15 testified knowing that Ngaïssona was sending food and money to the elements
16 in Zongo from his military friends but also directly from individuals with
17 whom Ngaïssona had direct contact.

18 Also, P-2841's testimony is further corroborated by contemporaneous Facebook
19 messages. In addition, P-2328 corroborate testimony and confirmed that
20 Ngaïssona was involved in the provision of ammunition to the Anti-Balaka
21 through Maxime Mokom.

22 In addition, your Honours, several emails show that in October 2013,
23 Ngaïssona was approached to provide military equipment and money for
24 Anti-Balaka elements in Bangui and in other locations.

25 An email of 5 December 2013 shows that, in addition to having provided

1 financial support to the Anti-Balaka in Zongo, which we just saw, in which
2 Ngaïssona participated, Ngaïssona was informed that those in Bangui and in
3 different locations, led by Lakouetene and Doguela, had not received their
4 support as usual.

5 You see here:

6 (Interpretation) "Concerning the situation in the country, our information cell
7 has been informed of funds and equipment being provided to the fighters who
8 are on the other side of the river" in other words, Zongo, "to coordinate with
9 those from Bangui. But unfortunately the person who is managing the
10 soldiers of Bangui and PK12, Lieutenant Doguela and the other who is
11 coordinating the Boali, Bongangolo, Bozoum line, that's Lieutenant Lakouetene,
12 have received no means at all as usual. I was contacted to get in contact with
13 you to ask for details because the situation is causing discontent."

14 (Speaks English) The next day. (Interpretation) Ngaïssona's reaction the next
15 day:

16 "Hello.

17 Could you send me their telephone numbers so that I can send an SMS
18 urgently or an email address.

19 Thank you".

20 (Speaks English) As a result, on 7 October, the next day, the interlocutor sends
21 Ngaïssona detailed lists, entitled *Besoins*, of the needs for military equipment
22 and money.

23 As I already mentioned before, Lakouetene had started organising military
24 operations in Bangui already in the summer of 2013.

25 As I also mentioned before, CDRs show that he was in contact with

1 Maxime Mokom, Bozize and Francis Bozize.

2 You have seen one of these slides this morning. As you can see, they contain
3 requests for money, but also rockets, grenades, ammunitions, et cetera.

4 On 12 October another list was sent to Ngaïssona entitled *Besoins Zone Sud*,
5 which you indeed saw this morning.

6 You have heard the testimony of 2843 and 2841 who confirmed the content of
7 the emails.

8 Ngaïssona didn't only ask for Lakouetene and Doguela's contact numbers, he
9 actually contacted them. In fact, CDRs show that Ngaïssona was in contact
10 with Doguela from 13 October 2013 throughout 18 November 2013. Also
11 Facebook messages and CDRs corroborate these emails.

12 In addition, Ngaïssona forwarded the emails to Eric Danboy, who I've
13 mentioned before, a former member of Bozize's presidential guard who was
14 also an *ex-libérateur*. Eric Danboy was also Bozize's nephew and director of
15 security, and he participated in the planning meetings in Cameroon with
16 Ngaïssona.

17 As you see from this email, Eric Danboy responds that (Interpretation) "the
18 report will be done immediately."

19 (Speaks English) CDRs show that, on 17 October 2013, some four hours before
20 Eric Danboy replied that "*le compte rendu sera fait immédiatement*", he had been in
21 contact with Ngaïssona for about 10 minutes.

22 P-2843 confirmed Ngaïssona's significant coordinating role in this period,
23 meaning before the 5 December attacks, corroborating the witnesses that I have
24 listed earlier at the beginning of my presentation. He testified:

25 "I have no interest in telling lies here. What I am telling you is that everyone

1 knew that I was in contact with Ngaïssona. And so, during that period, the
2 situation in the country was terrible, and everyone knew that Ngaïssona was
3 the coordinator of the Anti-Balaka. So that's why they were compelled to
4 come to me to have him send the document."

5 Also, P-2841 testified: "I think that was more when he was in Cameroon and
6 things were beginning to change on the ground as the Anti-Balaka advanced
7 on the ground and were taking over a number of cities. So that is when it was
8 understood that he would be the one in charge of resources, mobilising
9 resources and that resources should be transferred through him."

10 He also explained: "I think that I have talked about almost all of [the] political
11 persons who looking for positions, because in their minds they thought that the
12 Anti-Balaka were going to overthrow the Seleka, and so those who had funds
13 should contribute because they knew that the situation of the children on the
14 ground - and when I say 'children' , I'm referring to the Anti-Balaka - that the
15 situation was complicated. They needed resources in order to be able to
16 advance."

17 And that is exactly what Ngaïssona did. His contributions helped them to
18 advance. Ngaïssona was a conduit to securing the resources necessary to
19 support and sustain that advance.

20 Your Honours, once again, the Defence's allegations, according to which
21 Ngaïssona's sole objective was peace, do not hold.

22 In October and November 2013, the Anti-Balaka continued to target the
23 Muslim community as a whole. Many attacks were wildly reported.

24 P-2926 testified that by 13 October 2013, the security situation in the Central
25 African Republic had deteriorated to such an extent that France announced its

1 intention to send in additional troops. On 1 November 2013, the UN Special
2 Advisor on the Prevention of Genocide, Mr Adam Dieng, asserted that he
3 would not rule out the possibility of genocide, whereas not long thereafter,
4 Mr John Ging, the Operations Director of the UN Office for Coordination of
5 Humanitarian Affairs, warned, "We are very, very concerned that the seeds of
6 a genocide are being sown".

7 Fears expressed in the media were widespread and could not have escaped
8 Ngaïssona's attention. Yet, Ngaïssona continued to support the Anti-Balaka
9 materially.

10 On the heels of their failed Bossangoa and Bouar offensives, Bozize's inner
11 circle, including Ngaïssona, ramped up their efforts, coordinated concerted
12 Anti-Balaka operations along different fronts to attack Bangui and Bossangoa.
13 The evidence shows that in the third week of November 2013, Ngaïssona was
14 involved in the planning of the 5 December attack.

15 P-0801 testified that he met with Ngaïssona, Bernard Mokom, Eugene
16 Ngaikosset, Franklin Bozize, Eric Danboy and others in Yaounde and that he
17 was informed that an attack on Bangui was imminent. P-1847 corroborates
18 this, confirming that, at Ngaïssona and Bernard Mokom's request, Eugene
19 Ngaikosset came to Yaounde in November 2013 to receive instructions
20 regarding the Bangui attack, with a view to coordinating the Anti-Balaka's
21 actions on the ground. His prior testimony is clear and unequivocal.

22 Facebook messages, including exchanges of Aime Vincent Bozize and again
23 Eugene Ngaikosset themselves, are consistent with this testimony.

24 They confirm that Ngaïssona and Eugene Ngaikosset arrived in Yaounde in
25 that period, and that the group designated the men to lead the people in

1 Bangui. They also confirm that Bozize called to give instructions to Ngaïssona
2 and Bernard Mokom.
3 And I'll show you just a few messages.
4 Here you see a message of 21 November 2013 in which the interlocutors says:
5 (Interpretation) "When you called me, Mokom and Ngaïssona were beside me
6 so I couldn't say anything to you. But the situation is evolving well, the boss
7 called to issue instructions".
8 (Speaks English) In the exchanges, Aime Vincent confirmed Ngaïssona's role
9 stating on 25 November 2013 that they were working together with Ngaïssona
10 who was in Cameroon covering Douala and the deployments of elements to
11 the Cameroon border.
12 I will show you this message.
13 A person asks: "Ngaïssona?"
14 Aime Vincent Bozize responds: (Interpretation) "He's in Cameroon, where?"
15 (Speaks English) Aime Vincent Bozize responds: (Interpretation) "Douala.
16 Movement at the border".
17 (Speaks English) The person asks: (Interpretation) "Is he with us?"
18 Aime Vincent Bozize responds: (Interpretation) "Yes".
19 (Speaks English) In line with the message by Aime Vincent Bozize that
20 Ngaïssona was in charge of Douala and the movements in the border area, the
21 evidence shows that from October 2013 onwards, Ngaïssona and
22 Bernard Mokom mobilised, organised and funded the deployment of youth
23 and FACA -- and you can see here on the map, although the arrows are
24 missing.
25 So he organised a movement, the deployments of the youth and the FACA

1 from Douala and Yaounde towards the Cameroon border, Bertoua and
2 Garoua-Boulai, into Bouar, to participate in the 26 October attack, as I
3 mentioned before.

4 After the failed attack, Ngaïssona continued deploying the elements from the
5 border and from Bouar on to Bossembele to participate in the Bangui and
6 Bossangoa attacks.

7 P-2673 testified that in October and November 2013, Ngaïssona funded soldiers
8 to deploy to Garoua-Boulai and further into CAR. P-2673 received money
9 himself. He said, "Ngaïssona gave the money to Mokom's father because they
10 shared the same residence and Mokom was the one responsible for the money",
11 and that he, Bernard Mokom, "accounted and reported back to Ngaïssona
12 afterwards".

13 P-1719 corroborates the testimony. He testified that Ngaïssona was
14 mobilising Central Africans in Douala to return to CAR to fight. Ngaïssona
15 funded his transportation and the transportation of many other elements
16 whom he met later at the border.

17 Also, P-2841 corroborates the accounts, explaining that Ngaïssona and
18 Bernard Mokom were like relays in the field. They were supposed to be in
19 charge of things in Cameroon. Their role was to mobilise resources.

20 Contemporaneous Facebook messages corroborate these testimonies and show
21 that throughout October and November and December, Ngaïssona and
22 Bernard Mokom organised and funded the deployment of troops. They also
23 show that the elements deployed in view of the 5 December attacks -- they also
24 show that the elements were deployed in view of the 5 December attacks.

25 Let me show you just a few examples, because there is many on the record.

1 In this message of 31 October, you see:

2 (Interpretation) "Ngaïssona and Mokom, they're taking Gbaya and afterwards

3 the presidential guards to mount the troops at the border".

4 (Speaks English) This is another message on 31 October:

5 (Interpretation) "And the people of -- from Ngaïssona and Mokom, the people

6 that they have sent to the field, are they the FROCCA people? Because I'm

7 one of those people. May I go"?

8 And the answer is: "Yes, there are people".

9 (Speaks English) And there is another message in November, 24 November:

10 (Interpretation) "Okay, I'm thinking about it. I heard that Ngaïssona is asking

11 our guys from Bouar to go to Bossembele, and to get there in three days.

12 Yeah, they were held up because normally they should have already been

13 surrounding Bangui."

14 (Speaks English) And I'll show you another message on 1 December, and this is

15 of the person who testified to Ngaïssona having funded his transportation

16 towards the border. He says:

17 (Interpretation) "I'm already en route for the border. Ngaïssona has provided

18 us with something by way of transport."

19 (Speaks English) The messages I just showed independently corroborate P-2673,

20 P-1719, P-2841 and P-1847's testimony. Ngaïssona orders regarding the

21 deployment of troops are also consistent with the CDRs, showing Ngaïssona's

22 frequent contacts with Ndele, who was the Bouar chief, from the 11th to the

23 end of November 2013.

24 In addition, the deployment of elements from Cameroon to the border and

25 further towards Bossembele, Ngaïssona asked the elements to cross from

1 Zongo to Bangui.

2 Defence witness D30-4848 acknowledged the content of his 27 November 2013
3 Facebook message, which reflects that Ngaïssona and Bernard Mokom asked
4 the Anti-Balaka elements stationed in Zongo to cross over to Bangui, and that
5 he was informed that those in Douala were leaving that night to the border.

6 This is a week before the 5 December attack and it says:

7 (Interpretation) "Yes, I heard that old Mokom and P Ngaïssona have asked the
8 young ones to -- in Zongo to transfer over to Bangui and that was upon the
9 order of the old man".

10 (Speaks English) D30-4848 also confirmed that he had received information
11 that Ngaïssona and Mokom were managing the Anti-Balaka, while Kokate was
12 managing military members of the group.

13 As you can still see in the same message of 27 November 2013 where it says:

14 (Interpretation) "Wait, hang on, who is managing the Anti?" That is to say the
15 Anti-Balaka. "Ngaïssona, Mokom, Kokate and the military men?"

16 Answer: "Yes, I think that's right."

17 Again, this is a week before the 5 December attack.

18 (Speaks English) The deployment of Anti-Balaka elements, which Ngaïssona
19 helped to organise and fund, contributed to the preparation of the Bangui and
20 Bossangoa attacks.

21 Numerous witnesses, including P-0884, P-0889 and P-1338, stated that the
22 Anti-Balaka who attacked Bangui included elements from Bossembele and
23 from Bouar to where Ngaïssona deployed the elements.

24 Your Honours, the Facebook messages shown are only a fraction of the
25 messages involving Ngaïssona. Despite the Defence's assertion that these

1 exchanges are mere rumours or made up, there is no plausible explanation
2 why they would be in the circumstances. There is no reason why Ngaïssona's
3 name would be circulating among the members of Bozize's inner circle and his
4 supporters in these exchanges, if he had nothing to do with the Anti-Balaka.
5 His name is in circulation because he was and, as he later admitted to
6 President Samba-Panza, he was doing exactly what the many messages show.
7 As detailed in our closing brief, around mid November 2013, under
8 Maxime Mokom's coordination, Anti-Balaka groups from Gobere, Bossangoa,
9 Bouca, and Anti-Balaka elements from Bouar and Bossembele marched south
10 to carry out the 5 December attack. Maxime Mokom also deployed
11 Anti-Balaka elements from Zongo to Bangui in preparation of the attack.
12 As we already saw, Ngaïssona had also instructed some of the elements to
13 cross over.
14 Moreover, around the end of November, elements lead by Eusebe Emtenou
15 crossed over from Zongo to Damara with military equipment and had arrived
16 from South Africa with the assistance of Francis Bozize, in view of using it
17 during the imminent attack.
18 On their path towards Bangui, the Anti-Balaka attacked several towns,
19 including Ndjo, Bossembele and Bouali.
20 P-1847, who was close to Bozize's inner circle, and he was also close to
21 Ngaïssona, admitted:
22 (Interpretation) "There were many abuses against the Muslim community over
23 the course of the progression. No sanctions were taken by the Anti-Balaka
24 hierarchy for those atrocities".
25 Boali, in this respect, deserves special attention, as it was the last warning

1 Bozize's inner circle, including Ngaïssona, knowingly and willingly ignored
2 before ordering the executions of the 5 December attack.

3 Testimonial evidence corroborated by CDRs and Facebook messages show that
4 the Anti-Balaka, lead by Maxime Mokom's deputy Dedane, attacked Boali in
5 the night of 2 and 3 December 2013 on their way to Bangui, two days before the
6 5 December attack.

7 They killed at least 12 civilians while 14 children, including very small children,
8 were injured. Women and children who survived the attack were brought to
9 Bangui for medical treatment.

10 Given the particularly vicious nature of the attack and the age of the victims,
11 their arrival in Bangui was extensively covered by international and national
12 media.

13 Let me show you one example.

14 (Viewing of the video excerpt)

15 THE INTERPRETER: [12:35:05] (Interpretation of the video excerpt)

16 "On the verge of genocide, two days after Laurent Fabius' words,

17 President Djotodia attacks. He has called cameramen and photographers to
18 visit this centre. 12 have died in attacks, according to President Djotodia.

19 The survivors have been repatriated here and have been loaded into trucks.

20 The Muslims accuse the Christians.

21 They killed a lot of people where I lived. They cut my husband's head in front
22 of my children. They then set fire to our house.

23 This is the preliminary to genocide. We're overwhelmed. Look at this attack.

24 Is it human? We would want to alert the whole world to this, stand witness."

25 MS STRUYVEN: [12:36:17] P-1847 testified before your Honours that Dedane

1 had called him to confirm it was his group that attacked the Peuhl in Boali and
2 that the group, and I quote in French: (Interpretation) "They caused the
3 damage."

4 (Speaks English) P-1847 further testified that he subsequently followed the
5 news, like everyone else, on France 24 and on RFI and that he saw that there
6 had been, and he said it in a quiet, unclear way, (Interpretation) "There were
7 cases of robbery and various incidents of misconduct by Muslims and three
8 vehicles burnt out."

9 Several other witnesses, including P-2546 and 0974 confirmed having seen the
10 images on France 24, Afrique 24, and other media outlets. P-0884

11 acknowledged knowing of the attack, adding that it was common knowledge.

12 Likewise, as I already mentioned, D30-4848 testified that from Cameroon
13 everyone was following the situation very closely, including through television
14 and radio.

15 Facebook messages demonstrate Bozize's inner circle's awareness of the victims
16 having been brought Bangui. They also show how they minimised and
17 ridiculed the event, including Yakete, D30-4679 and others who had attended
18 meetings at Ngaïssona's invitation.

19 And I'm just going to show you a few.

20 In a message on 3 December on the day -- the second day of Boali attack the
21 interlocutor says:

22 (Interpretation) "Djotodia has gone to see in the Boali package.

23 Will he return?

24 The Seleka bodies recovered."

25 (Speaks English) It shows that Bozize's inner circle considered these victims to

1 be Seleka.

2 The message also shows -- messages also show that they ridiculed Laurent
3 Fabius' intervention two days earlier that the CAR was going towards a
4 genocide.

5 Here you see:

6 (Interpretation) "As regards Boali, did you hear the bullshit Fabius said on
7 RFI?"

8 (Speaks English) Here you see Yakete's reaction:

9 (Interpretation) "The Anti-Balaka massacred the Seleka on the Boali road near
10 PK45, that's it and that's what caused anger, panic has taken hold. The
11 schools are closed."

12 (Speaks English) Yakete responds:

13 (Interpretation) "Yeah, that's right, fighting began yesterday in the evening and
14 is continuing. Our men have given them a beating."

15 As mentioned, your Honours, the Boali attack is emblematic. It represents the
16 last warning before the 5 December attack. By then Ngaïssona and Bozize's
17 inner circle knew, without any doubt, that the thousands elements gathered
18 around Bangui were about to commit exactions on the Muslim population in
19 Bangui as they did in Bossangoa and in every village they crossed on their way
20 to the capital.

21 Ngaïssona chose to ignore those warnings. He willingly and purposely
22 decided to move on with the plan to attack Bangui and he used and
23 instrumentalised the existing resentment towards the Seleka for his own
24 interest.

25 By 5 December 2013, the Anti-Balaka coming from different areas encircled

1 Bangui. They assembled mostly behind the Boy-Rabe hill, also known as the
2 Bas-Oubangui hill or the Gbazabangui hill, but also elsewhere, including in
3 Boeing. As it will be explained in more detail by my colleague,
4 Maxime Mokom also liaised with Yekatom regarding the deployment of his
5 elements from Gbangba to Projet near the airport in preparation for the attack.
6 Despite being warned that the attack would cause large-scale casualties among
7 the civilian population, the group's leaders made clear that the group did
8 not want dialogue, but war. You have heard P-0876's testimony that he had
9 warned the Anti-Balaka at the hill not to conflate Muslim civilians and the
10 Seleka. He noted at the time it was common knowledge that the Anti-Balaka
11 were targeting the Muslim population.

12 Numerous witnesses testified that in the early hours of 5 December, several
13 thousand Anti-Balaka attacked Bangui. They proceeded simultaneously from
14 different directions. Some were under the command of FACA officers,
15 including Yekatom, Konate and Ngremangou. Others were led by *de facto*
16 commanders such as Andjilo and Lebene. The scale, coordination and pattern
17 of the attack demonstrates that the Anti-Balaka were numerous, organised and
18 structured. The Anti-Balaka selected strategic locations such as the National
19 Assembly, the Kassai camp or the Foh and Boy-Rabe neighbourhoods.

20 The evidence establishes that FACA and civilians joined the Anti-Balaka on
21 their descent towards Bangui. Youth from Bangui, including those previously
22 mobilised into COCORA and COAC, also joined the Anti-Balaka ranks before
23 the attack. The civilians joining the ranks were put under the command of
24 Anti-Balaka leaders as P-1521 testified.

25 FROCCA immediately and publicly claimed responsibility for the attack. You

1 have heard Lin Banoukepa's radio interview in which he confirmed that
2 FROCCA was the political head of the Anti-Balaka. I quote in French:
3 (Interpretation) "We are the political head."
4 (Speaks English) As detailed in our closing brief, the evidence shows that
5 Maxime Mokom coordinated the Anti-Balaka elements and that he secured
6 additional ammunition specifically for the attack. It also shows that for the
7 attack Maxime Mokom liaised closely with Ngremangou, Konate, and others,
8 including Yekatom, as will be explained by my colleagues later. CDRs
9 corroborate Maxime Mokom's coordinating role.
10 As you see here in the schematic overview, from 15 November to
11 4 December - and this is just some of the calls, it's not with all of the
12 individuals - Maxime Mokom had more than 60 contacts with Ngremangou,
13 200 contacts with Konate, 20 contacts with Yekatom, more than 10 contacts
14 with Ngaïssona, 180 contacts with Lakouetene, who was involved in the
15 supply of military equipment, as I already said, and 200 contacts with Bejouane,
16 who was one of the Anti-Balaka leaders who came down from Gobere.
17 On 4 and 5 December Maxime Mokom's phone was active without interruption
18 throughout the night.
19 CDRs show that in addition to being in contact with Ngremangou, Konate,
20 Yekatom, Ngaïssona, Lakouetene, and Bejouane, on 4 and 5 December he
21 communicated with many other Anti-Balaka chiefs as well as with his father
22 Bernard Mokom.
23 This is the list of the individuals he was in contact with during the attack.
24 After the 5th of -- attack and until his return to Bangui on 6 February,
25 Maxime Mokom remained in contact inter alia with Ngaïssona, Ngremangou,

1 Konate, Yekatom, and others, as you can see from this list.

2 Your Honours, the evidence presented shows clearly that Ngaïssona was

3 involved in the preparations of 5 December attacks. He was also involved in

4 its execution.

5 P-2625, P-0884, P-2673, P-1847, P-0992 and P-0306's testimony establishes that

6 Ngaïssona knew of and was involved in the attack.

7 Just to give you a few examples. P-267 testified that on Bozize's instructions,

8 Ngaïssona liaised with Yambete and Konate to delay the attack in order to

9 allow the elements from Bouar and Bossangoa to join up with those in Bangui.

10 P-1847 stated that Ngaïssona asked the fighters to rest before the attack,

11 whereas P-0884 testified that Ngaïssona discussed the imminent attack in

12 advance, which is corroborated by 0306's testimony that establishes

13 Ngaïssona's awareness of the progressions of the troops and that he was

14 liaising with Konate and Ngremangou.

15 Several witnesses also confirmed Ngaïssona's involvement with Konate and

16 Ngremangou who had, as I said, important roles during the attack. Their

17 testimonies are also corroborated by CDRs.

18 As you can see from this slide, between 15 November and 4 December,

19 Ngaïssona had over 40 contacts with Dedane, 15 contacts with -- sorry, he had

20 contacts with Dedane, he had over 40 contacts with Ngremangou, 15 contacts

21 with Konate, 50 contacts with Ngaya, 10 contacts with Maxime Mokom, 150

22 contacts with Wenezoui, and 15 contacts with Lakouetene, who, as I mentioned

23 before, was in charge of the military equipment.

24 In addition, between 1 and 4 December, Ngaïssona was in contact with

25 Bejouane who would later become the Anti-Balaka's chief of staff.

1 I think this is not reflected in the slides, but on 5 December, Ngaïssona was in
2 contact with Ngremangou, Wenezoui, and Lakouetene.

3 In addition to liaising with its key actors, Ngaïssona contributed to the charged
4 crimes by promising financial support to the elements. He kept his promise.

5 As the Anti-Balaka were deployed behind the Bas-Oubangui hill, they
6 approached Ngaïssona, who committed to support them. P-0992 testified that
7 the Anti-Balaka reached out to Ngaïssona before the attack and that Ngaïssona
8 committed to provide financial assistance. He explained before your Honours
9 that Ngaïssona was the only person they approached for such a support and
10 that he was -- and that only he was willing to help them, adding, "everyone
11 feared the offensive. Everyone was afraid of the savagery, the animosity of
12 the Seleka. Who other person? Who else? There was only Ngaïssona.
13 Ngaïssona was the only one because someone had to clean up the mess."

14 Now, while P-0992 attempted to recant his prior statement to say that
15 Ngaïssona only provided money after 5 December attack, he nevertheless
16 confirmed that Ngaïssona promised the financial assistance to support the
17 elements before the 5th of -- attack, making good on his promise.

18 Also, P-0306 testified to Ngaïssona's promise to provide substantial financial
19 help on their arrival in Bangui at the end of their operation. His testimony is
20 corroborated by 0808's statement, admitting that he transmitted money
21 provided by Ngaïssona to the participants of the 5 December attack including
22 to P-0306 before Ngaïssona's return to Bangui.

23 The Anti-Balaka's stated objective was to take control over the capital and
24 remove Djotodia to regain power. As with their previous attacks, the means
25 they chose to do so entailed attacking the Muslim civilian population which

1 they perceived as collectively responsible for, complicit with, and supportive of
2 the Seleka. The crimes committed in executing the attacks were extensively
3 and contemporaneously reported in the media.

4 For P-2841 and many others, the Anti-Balaka's commission of the crimes was
5 entirely foreseeable. He stated, "I could foresee that the conflict would be
6 bloody and violent, the Anti-Balaka were already going too far prior to the
7 5 December attack."

8 Despite this, Ngaïssona continued his involvement in the Anti-Balaka.

9 CDRs show that between 5 December 2013 and his return to Bangui on 14

10 January 2014, Ngaïssona remained in contact with Maxime Mokom,

11 Ngremangou, Konate, Namsio, Wenezoui, Ngaya and Feissona. Moreover, he
12 was appraised contemporaneously of the Anti-Balaka activities.

13 Indeed, in the weeks after the 5 December attack, senior Anti-Balaka leaders

14 continued to liaise and coordinate physically in Bangui. On or around

15 27 December 2013, about 26 Anti-Balaka leaders met at Yamwara school,

16 including Ngremangou, Yekatom, Wenezoui, Kamezolari, to coordinate further

17 Anti-Balaka activities. The evidence shows that Ngaïssona was

18 contemporaneously updated on their activities and that his input was

19 requested.

20 I will only show you one example, but in this example on 28 December email,

21 Ngaya asked Ngaïssona:

22 (Interpretation) "Hello, Excellency, just to forward the documents from our

23 little guys: press release and requirements to be the subject of possible

24 negotiations. Please provide your feedback as regard the CPLC's needs.

25 Thank you."

1 (Speaks English) Your Honours will note the reference to "*nos petit*".
2 Between 8 January 2014 and 13 January 2014, Ngaïssona is sent different CLPC
3 and Anti-Balaka documents which he systematically forwards to Franklin
4 Bozize. You have the evidence on the record. The documents attached are
5 press releases and minutes of meetings signed by Namsio, Wenezoui and
6 Ngremangou, and they request a return to constitutional order. I will not
7 show them all. The references are in our closing brief.
8 In addition to being appraised of the activities on the ground, Ngaïssona
9 continued to be involved in military matters and this again before his return to
10 Bangui. The evidence rejects the Defence's claim that his appointment as the
11 general coordinator upon his arrival in Bangui came as a surprise.
12 As you will see here, this email and attachments shows that on 8 January 2014,
13 Ngaïssona exchanges with Franklin Bozize.
14 You were supposed to see a slide with an email on 8 January 2014 in which
15 Ngaïssona exchanges with Franklin Bozize responding to his detailed request
16 for weapons and ammunition. Ngaïssona asks Franklin Bozize to add more
17 hunting rifles to the list and the financial needs of the demands for the
18 Anti-Balaka.
19 In addition, you have heard the evidence of P-1719 that Ngaïssona continued
20 to liaise with the Anti-Balaka leaders stationed in Garoua-Boulai, including
21 Sabe, Rocca Mokom, Aaron Ouilibona , and Yambete, promised to give
22 them weapons and instructed them to attack Beloko on 20 January 2014.
23 Beloko was attacked despite Djotodia's resignation 10 days earlier and despite
24 knowing that the Anti-Balaka were targeting the Muslim population.
25 I'm not sure, your Honours, if you want to break now, but my colleague is

1 going to address the next period.

2 PRESIDING JUDGE SCHMITT: [12:53:31] Well, I think that would make
3 sense.

4 So we have the break now until 2 o'clock.

5 MS STRUYVEN: [12:53:36] Thank you, Mr President.

6 THE COURT USHER: [12:53:37] All rise.

7 (Recess taken at 12.53 p.m.)

8 (Upon resuming in open at 2.02 p.m.)

9 THE COURT USHER: [14:02:52] All rise.

10 Please be seated.

11 PRESIDING JUDGE SCHMITT: [14:03:15] Well, all evidence points to
12 Mr Garcia as the next speaker.

13 MR GARCIA: [14:03:22] Yes, good afternoon, your Honours, but just for one
14 brief instant, just to inform the Chamber that we will not be continuing for the
15 moment with the Ngaïssona individual criminal responsibility and we will be
16 continuing with my presentation. Mr Vanderpuye will be very likely
17 addressing that at the conclusion stage. Thank you very much.

18 PRESIDING JUDGE SCHMITT: [14:03:46] Please continue.

19 MR GARCIA: [14:03:49] And for the record, your Honours, Maître Niang is
20 not present with us, the rest of the Prosecution remains unchanged.

21 (Counsel confers)

22 MR GARCIA: [14:04:02] One extra person, Leila Haccius as well from the
23 office who is present with us in the back.

24 (Interpretation) Mr President, your Honours, I intend to address you briefly on
25 the elements of evidence that the Prosecution considers relevant when it comes

1 to the individual criminal responsibility of Mr Yekatom. I do not obviously
2 intend, and I don't have the time to, to revisit all the elements, but I will mainly
3 focus on the main -- most relevant points. And as to the other elements of
4 evidence, we will revert to the written conclusions or briefs that we already
5 filed to the Chamber.

6 It is clear, Mr President, from the entirety of the evidence that it is by following
7 the criminal orders of Mr Yekatom that his elements committed crimes against
8 humanity and war crimes for which he is charged in the document containing
9 the charges. Basically, your Honours, a lot of evidence has been submitted to
10 you. My learned colleague Vanderpuye has broached most of them, but if we
11 look at the evidence relating to Mr Yekatom, we see that he acted through the
12 intermediary of his group, his Anti-Balaka group, which happened to be a
13 hierarchical organisation with a military structure with organised hierarchical
14 power structures. And the evidence will show, Mr President, or the evidence
15 has shown, that he had undisputed power over the group. Several witnesses
16 have addressed this matter.

17 The crimes, Mr President, were committed pursuant to the implementation of a
18 common plan, which in itself was also criminal in that it violently targeted
19 individuals of Muslim faith who lived in his -- in the area under his control.

20 As a matter of fact, Mr President, your Honours, when you look at the evidence
21 it becomes obvious, apart from the hostility, the violent hostility against
22 Muslims, which was the trademark so to speak of the Anti-Balaka group, what
23 we observe is that Mr Yekatom used and harnessed that anti-Muslim hostility
24 to implement his joint plan, his common plan.

25 The criminal acts were committed, therefore, pursuant to this common plan.

1 When we look at the entirety of the evidence, the common plan, Mr Yekatom
2 obviously held the most important position of authority within the Anti-Balaka
3 group, and in order to ensure that this plan was implemented with the
4 members of his group, targeting members of the Anti-Balaka group in the
5 south west, rather, and in Bangui and on the PK9 road as well as Mbaïki, this is,
6 in fact, the area where the common plan we have been talking about took
7 place.

8 What was Mr Yekatom's contribution to this plan? It emerges from the
9 evidence that his contribution was as follows. Firstly, Mr Yekatom, himself, is
10 the one who created his group -- the Anti-Balaka group. Mr Vanderpuye has
11 talked about it. We have listened to some video recordings this morning to
12 that effect. Other video recordings are also in evidence pointing to the fact
13 that Mr Yekatom himself says that he is the one who created the Anti-Balaka
14 group. He structured it, he organised it - the Anti-Balaka group - in the bush
15 and it was done pursuant to a military-style hierarchy.

16 We must recall that Mr Yekatom himself is a career soldier with experience in
17 that area. So what he did, Mr President, is that he positioned himself as the
18 leader of the Anti-Balaka group, an unchallenged leader of the group. That is
19 what he used to ensure that his authority was not contested, and he did so by
20 using violence, violence against his elements.

21 So, aggression, gunfires and killings were the hallmark of this authority.

22 Nothing, Mr President, and we need to underscore this, that from the evidence,
23 nothing whatsoever was done within his group without Mr Yekatom's
24 authorisation.

25 We have talked about, and it is important to mention this charge as well as the

1 incident which my colleague will talk to you about this morning -- or
2 tomorrow morning, rather, this afternoon or tomorrow. Nothing was done
3 without his authorisation because his authority over the group was
4 unchallenged.

5 The evidence will also point to the fact that his authority was unopposed and
6 in that capacity he was the only person who could decide on the fate of
7 people's lives.

8 One Prosecution witness - transcript 155, French version, page 38, line 27,
9 page 39, line 5, Prosecution - summed it up very well, saying, "If Mr Yekatom
10 said you will be released, you will be released. But if Mr Yekatom said you
11 will be killed, then you will be killed."

12 This says it all, Mr President, about the authority and uncontested power of
13 Mr Yekatom within his Anti-Balaka group. He used that authority to
14 command, to order his elements, to commit the crimes for which he now
15 appears before your Chamber.

16 Mr President, your Honours, the evidence also shows that while Mr Yekatom
17 was creating, organising and structuring his group along military lines, he
18 brought together within his group individuals - men and women - and then he
19 also recruited some children later on. All these people had one thing in
20 common, and this is important, and we can see this clearly from the
21 contemporaneous videos which were taken in December and January and they
22 talk about it themselves -- or rather, the videos speak to this directly, that these
23 people whom he recruited had a thirst for vengeance against the Seleka, who
24 by, the way, Mr President, were sort of treated with violence and hostility and
25 were grouped together with Muslims as well.

1 This violence, Mr President, and hostility we see in the videos, and the reason
2 for the violence is that those of the Muslim faith were supporters of the Seleka
3 or accomplices of the Seleka who had done them so much damage. These
4 were the people who were part of Mr Yekatom's group and they were of the
5 state of mind I have just described, against Muslims.

6 Mr President, I can already tell you that this is something that they did not
7 even bother to dissimulate. We have looked at the videos, and you can see
8 from the videos and even from the written statements before you that they
9 made public statements about killing Muslims. They were not ashamed of it,
10 they were proud of it publicly, and they did so, talking about it in public, in
11 front of others who were brandishing machetes and so on and so forth.

12 And everything in this regard was done in public. Why, Mr President? Why?
13 Because this was not only tolerated within Mr Yekatom's group, it was actually
14 promoted or encouraged.

15 If you take the time to look at the videos again, you will see that basically this
16 is what one comes to conclude about. They were not bothered by this
17 publicity.

18 Mr President, apart from creating, structuring and organising his Anti-Balaka
19 group, he also planned, prepared and executed the attack on Bangui with his
20 Anti-Balaka group. The Chamber has heard evidence in this connection from
21 Prosecution witnesses in private session, and I do not intend to revisit those
22 points because the Chamber is well-informed.

23 In any event, what emerges is that Mr Yekatom led the attack on the Boeing
24 market, which it must be said, Mr President, was not a legitimate military
25 target. It was a market where traders did their business. They had spent the

1 night there protecting the little of their property that was still remaining.
2 They killed those traders. Some fled, without which more people would have
3 been killed. These people are traders, and I don't need to repeat this. But
4 you can see from the Defence's written submissions that they identified them
5 as traders who were in their market, in their shops, produce -- protecting their
6 items. These were not military targets. These were not people who were in
7 any way whatsoever involved in any acts of hostility.
8 Maître Pierre Belbenoit will revisit this question and will delve into some of the
9 points raised by the Defence in their brief.
10 So, this is what the elements did, and they did so pursuant to Mr Yekatom's
11 orders, the orders that he gave on the eve of the attack on Bangui. The
12 Chamber heard witnesses, and one of the main Prosecution witnesses said that
13 an order had been given by Mr Yekatom on the eve of the attack to his
14 elements. Not only was the order given, but also the target was to target
15 civilian Muslims -- not only Muslims, but men. And these, Mr President,
16 I must say were not military targets nor persons who were involved in the
17 hostilities. None of them.
18 So, because his power and his authority were unchallenged, the elements
19 obeyed his orders to the letter, including the destruction of the mosque in
20 Boeing.
21 Mr President, I cannot go into further details because evidence was given in
22 this regard in private session. But the Chamber also heard evidence that
23 Mr Yekatom gave similar orders during the training of his elements as they
24 prepared for the attack. He ordered them to attack civilians, civilians of
25 Muslim faith. But that's not it -- that's not all, Mr President. The orders were

1 repeated, and you have two important witnesses in this case who corroborate
2 each other when they speak about Mr Yekatom's desire to attack Muslim
3 civilians. You have witness 1873, transcript 171, page 31 from lines 5 to 9, in
4 which Mr Yekatom repeated to his elements while they were on the Mbaïki
5 road the following: He asked them to kill Muslims who were to be found in
6 the area under their control.

7 So basically, Mr President, the same criminal orders were issued and these
8 orders were heeded to the letter. In a nutshell, when we look at the evidence
9 on record, particularly Prosecution evidence, the evidence is such as to exclude
10 any reasonable doubt, because, Mr President, the ongoing and permanent
11 orders about which you have testimony, permanent orders, Mr President, were
12 the orders that caused Mr Yekatom's group and its members to kill Muslim
13 civilian traders during the attack on Boeing and on Cattin on 5 December in
14 Bangui.

15 These standing orders are the same orders that caused his elements to detain
16 civilians. Seven persons, including three Muslims, three women, were
17 abducted and tortured and one of them was killed. These acts were done
18 pursuant to the orders which the elements also obeyed in killing the mayor in
19 Mbaïki. These were orders of violence, Mr President, orders that engendered
20 fear in the population and caused violence by -- within the group, and which
21 led to forcible transfers and deportation of hundreds and thousands of persons,
22 Mr President, who were to be found in any areas where Mr Yekatom and his
23 group went by -- Bangui, PK5, Mbaïki -- and in these areas people had to leave
24 their communities. They were uprooted, Mr President, and we heard
25 evidence that some only left with whatever they had on them by way of

1 clothing. They abandoned their property, their homes, their belongings,
2 everything was abandoned in Mbaiki, and this evidence is before you,
3 Mr President.

4 So, Mr President, these orders contributed to the implementation of the
5 common plan which led to the persecution of persons of the Muslim faith.

6 Mr Yekatom recruited children of less than 15 years old and they were under
7 his authority, and it must be said again that nothing happened without his
8 knowledge, without his authority, without his authorisation. And, so, this is
9 known from the evidence.

10 Turning to the *mens rea*, Mr President, of Mr Yekatom. When we look at the
11 criminal nature of his orders and the criminal nature of the plan -- of the
12 common plan, the only conclusion you can come to is that Mr Yekatom acted
13 voluntarily and wanted to ensure that the objective elements of the crime that
14 he wanted to pursue were committed by his elements.

15 At the very least, Mr President, you have enough evidence to come to the
16 conclusion, mindful of the context of hostility against the Muslims, violent
17 hostilities one must say - this is how I choose to refer to it - we can only come to
18 the conclusion that Mr Yekatom must have known that the acts committed by
19 his elements were going to occur in the normal course of events.

20 Let me turn again to the common plan and mention just a few items which the
21 Chamber is already fully conversant with. I emphasise only a few.

22 One, you have the criminal orders of Mr Yekatom. I've already addressed
23 that. I don't intend to go back to it. But this is crucial because it speaks to the
24 very determination whether there was a joint criminal plan in place. He gave
25 orders for civilians to be killed, Muslim civilians to be killed. The evidence

1 also points to the fact that on 5 December and thereafter, Mr Yekatom's orders
2 were respected to the letter. His elements committed crimes and this speaks
3 to the existence of the common plan.

4 P-1339 and P-3839 testified in this regard, Mr President. We can take the
5 crimes and murders committed by members of the Anti-Balaka group
6 belonging to Mr Yekatom, for example, in Bangui, in Yamwara, and in Mbaïki.

7 We see that acts of torture were committed and all of these elements point to
8 the existence of such a common plan with an intent to violently target people of
9 Muslim faith in his zone of control.

10 We also have video recordings, Mr President, your Honours, and my learned
11 colleague Mr Vanderpuye talked to you about them already, and I mentioned
12 them early on in my presentation as well. These are video recordings which
13 speak for themselves; we don't need to say any more. But what they do is that
14 they give you upfront opportunities to see the hallmark of this anti-Muslim
15 violence which characterised Mr Yekatom's group at the time of the crimes.

16 And this went from the lowest ranks of the hierarchy to the very highest ranks.

17 There was no distinction made between the Seleka and civilians of Muslim
18 faith.

19 Before I play the first recording, we can see at CAR-OTP-2065-0436 -- and for
20 the interpreters, the transcript is at CAR-OTP-2107-1539, page 154, lines 1 to 18.

21 We will see here that one of the generals of Mr Yekatom, the second deputy,
22 who would later on become his deputy, Mr Beina, talks about the possibility of
23 a genocide.

24 (Viewing of the video excerpt)

25 MR GARCIA: [14:27:56] (Interpretation) Here comes the video.

1 THE INTERPRETER: [14:27:58] (Interpretation of the video excerpt)
2 "Christians are suffering a lot. You can see. It's difficult to find food.
3 Why are these gentleman here?
4 They're fleeing the Seleka.
5 It's because of the Seleka. You can see, Chadian, Sudanese, Toro Boros,
6 Janjaweed. You can see for yourself. They have to go back to their home.
7 Here is the Central Africa. This is not Chad. Idriss Déby does not -- cannot
8 command us here. Al-Bashir cannot give us orders here. This is the Central
9 African Republic. If he does not resign in three days, then we will carry out a
10 genocide in the CAR. This is very brief. My position is very clear."
11 MR GARCIA: [14:28:53](Interpretation) Now, Mr President, this is a video
12 recording which the Chamber already listened to before but which tells the
13 details of the story about the murderous intentions of someone who was of
14 high command levels in Mr Yekatom's group. He is the one who would
15 become his right-hand person later on. It speaks volumes about the
16 murderous intentions of Mr Yekatom himself as well.
17 I have a second video for you. It is a video in which we see another aspect of
18 mister -- or, rather, another element of Mr Yekatom's group. He was in charge
19 of training of recruits at the Yamwara school base. He was a commander in
20 charge of that activity and his name is Max Maïdana.
21 In the video he explains what I was talking about before -- the very
22 disconcerting and cold nature in which they intend to use the weapons in their
23 possession against Muslim individuals.
24 (Viewing of the video excerpt)
25 THE INTERPRETER: [14:30:23](Interpretation of the video excerpt)

1 "What weapon is that?

2 This weapon is like a -- is like a -- an anti-aggression weapon. It is to target
3 Muslims who are in -- in -- well, we launch it towards Muslims who are in their
4 homes so that they might come out. It's like teargas. And so we snuff them
5 out and then we kill them. We kill even little children. Because we have
6 suffered too much. But we are soldiers."

7 MR GARCIA: [14:31:26](Interpretation) Mr President, the video recording is
8 very clear. There is no possible misinterpretation of what Mr Maïdana was
9 saying, whether he was talking about Seleka or Muslims. He talked about
10 children. And that is why at the very beginning of my presentation I have
11 repeatedly said that this violence, or this anti-Muslim perception, was
12 extremely violent, and this is the type of thing that Mr Yekatom used for his
13 elements to attack the market in Boeing and Cattin, targeting civilians who
14 were not military targets.

15 That's not all, Mr President. I know that the Chamber has already watched a
16 number of videos, but there is also more that we can talk about by watching
17 videos that talk about people slitting other people's necks and slaughtering,
18 and talking about this publicly, shamelessly, in public. And these all speak to
19 the levels of violence and the threats that were targeted against
20 people -- persons of Muslim faith. This characterises Mr Yekatom's group.
21 I want to portray -- or, rather, display a video, CAR-OTP-0265-3172.

22 THE INTERPRETER: [14:33:21] Sorry, the interpreters made that -- missed
23 that reference.

24 MR GARCIA: [14:33:28](Interpretation) But, Mr President, here we are
25 dealing basically with some of the most important Prosecution witnesses, and

1 this speaks to their credibility on this specific point, but also to the relevance
2 and reliability of their testimony in a very broad sense.

3 At transcript 152, edited version, page 16, lines 2 to 5, we have a witness who
4 talks about this state of mind, or this mindset, that characterised Mr Yekatom's
5 group while they were in the bush. The witness testified that those who
6 joined the groups were led by a spirit of violence. He goes on to say that even
7 the chiefs who commanded the troops were motivated or guided by the same
8 spirit of vengeance.

9 Witness P-1839, also I can talk about this witness here, is a very important
10 witness who provided reliable evidence to the Chamber. The Chamber put
11 some questions to the witness in relation to the mindset of members of
12 Mr Yekatom's Anti-Balaka group.

13 With your leave, I would like to quote. The Chamber asked the following in a
14 bid to find out how the leaders of Yekatom's group spoke about Muslims.

15 P-1839 said, and I'm quoting him, "the -- they were enemy number one".

16 Mr President, "enemy number one". And that is exactly what we see in the
17 videos and it explains, Mr President, why murders were committed at the
18 Boeing market. It explains why so many things happened, including the
19 Yamwara incident, and it speaks to the reasons for people being arrested,
20 detained, tortured, and killed.

21 It also explains why members of Mr Yekatom's group killed Mr Djido Saleh,
22 second deputy to the mayor, who courageously decided to remain in the town,
23 whereas he could have left, but he paid with his own blood. It explains,
24 Mr President, the very reliability of witness 1839.

25 When the Chamber asked witness 1839: Why it is that the leaders thought

1 that Muslims were enemy number one, P-1839 sheds a lot more light when he
2 answers as follows:

3 "[It was] tooth for a tooth, an eye for an eye, because of all what they had been
4 subjected to by the Seleka, because when the Seleka entered the Central African
5 Republic, some Christians had to pay for it. So, in our minds, in our heads, it
6 was the same thing."

7 And that's what happened, Mr President. Mr Yekatom's group attacked
8 civilians of Muslim faith because, as P-1839 put it, it was a tooth for a tooth and
9 an eye for an eye.

10 Mr President, I do not intend to call for a private session, but we also have an
11 excerpt from the testimony of this witness, transcript 170, edited version,
12 page 35, from lines 1 to 9. It would take about 13 seconds or so, but I just
13 simply want to refer you to a small excerpt of this testimony, which is
14 extremely important when you look or you consider what the witness testified
15 to in relation to the state of mind of members of Yekatom's group when it
16 comes to persons of Muslim faith.

17 With the leave of the Chamber, I would take one minute, please, to just go in
18 private session for one minute.

19 PRESIDING JUDGE SCHMITT: [14:38:49] Well, very shortly really. And
20 this should not become a regular thing. Okay.

21 (Private session at 2.39 p.m.)

22 THE COURT OFFICER: [14:39:08] We are in private session, Mr President.

23 (Redacted)

24 (Redacted)

25 (Redacted)

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Open session at 2.40 p.m.)

14 THE COURT OFFICER: [14:40:22] We are back in open session, Mr President.

15 MR GARCIA: [14:40:30](Interpretation) Your Honour, as regards the

16 contribution -- Mr Vanderpuye has already talked about this, the contribution

17 of Yekatom, I've also talked about this as I tackled the topics in my submissions,

18 my oral submissions. The contribution of Mr Yekatom independently

19 speaking, or even jointly, was that he had control over the crimes. Why?

20 Because clearly he had set up and organised his Anti-Balaka group according

21 to his own desires. He has set it up. He gathered them together and he

22 created the mindset that they had in a public way.

23 He commanded, your Honours, through fear and violence. We have said this

24 in our submissions in greater detail.

25 He was a member of FACA. He set up a military hierarchy of the kind and

1 placed himself at the head of it. And this despite the fact, your Honours, that
2 he only had the rank of master corporal within the FACA. But this didn't
3 have much significance, your Honour, because a witness said Mr Yekatom was
4 a warlord. And I quote:

5 "No one could take his place. It was impossible."

6 This is 201, page 36, line 2 to 19.

7 So, be a general, be a captain, it was Mr Yekatom who was in charge. No one
8 else. No one could disobey Mr Yekatom. No one would dare to disobey him
9 within the Anti-Balaka, because if they did, they risked death.

10 P-1786 stated this - CAR-OTP-2058-0200 on page 205, paragraph 28 - where he
11 confirms, and this is very important, your Honour, because he doesn't
12 remember -- he remembers that it doesn't matter who you were, if you dared to
13 disobey Mr Yekatom, and he added this, and this is extremely important as far
14 as we are concerned, that he would have never survived if he himself had
15 disobeyed Mr Yekatom. Not to -- not to mention -- just to mention the fear
16 that they felt and the violence on his part which we mentioned, which is
17 described, more details, in our written submissions.

18 We heard the witness of P-1839 who talked about the authority of Mr Yekatom,
19 saying that it was only Yekatom could decide not only on the life or death of a
20 person, a captive. Transcript 71, page 27, line 10 and page 28, line 18.

21 As regards these contributions of Mr Yekatom, he also -- and, your Honour, he
22 was not only was -- everybody was forced to respect the military hierarchy
23 under his authority, which is undisputed, and also his chain of command,
24 when and through this chain of command and military hierarchy Yekatom
25 could give his orders, and this way he would be sure that his commands would

1 be carried out to the letter. And this is what becomes clear in all the evidence.
2 Mr Yekatom in the same sense made discipline reign within his group by
3 violence or the fear of violence. The proof of this shows that he didn't use
4 punishment to his own elements if they didn't obey his orders, if they did not
5 show loyalty.

6 And some elements have borne witness to that. P-1637 confirms that Yekatom
7 was responsible for discipline with -- within the group and said that
8 Mr Yekatom himself punished the commander by beating him with a stick.

9 What is important to remember here is that this evidence in transcript 51,
10 page 38, page 1 -- page 44, line 3 to 28, saying that there was no appeal and his
11 orders had to be carried out. It was only he who would be in charge of
12 discipline. Yekatom equipped his elements with ammunition and munitions,
13 which he did before 5 December.

14 And finally, your Honour -- which I've already mentioned, which is extremely
15 important -- that it was Mr Yekatom who, at the head of his group, planned,
16 prepared his elements and threatened his elements during the -- and led the
17 elements during the attack of PK9 up to Mbaïki. He provided -- he gave them
18 criminal orders. It is Mr Yekatom, and his contributions were essential for
19 these orders to be carried out.

20 You also have the evidence, your Honour, that there were children not less
21 than 15 years of age within his group. Given his authority, which is
22 undisputed, and the fact that some of these children were manning the
23 blockades and were managed by the Anti-Balaka group, those children were
24 under the age of 15. Nothing could be done without his authority.

25 So, your Honours, members of the Court, as leader of the group, of the

1 Anti-Balaka group, Mr Yekatom had the responsibility to take measures to
2 prevent any violations of international humanitarian law by their subordinates.
3 Evidence shows that Mr Yekatom, in fact, did the opposite, completely the
4 opposite.

5 Now, I will try, your Honours, members of the Court, to give the floor to
6 Mr Pierre Belbenoit-Avich. He will talk about the event that took place in
7 Bangui.

8 PRESIDING JUDGE SCHMITT: [14:48:33] Thank you, Mr Garcia.

9 MR BELBENOIT-AVICH: [14:48:57] (Interpretation) Mr President, your
10 Honours, the evidence adduced during this trial proves beyond a reasonable
11 doubt that Yekatom and his group, then composed of about 1,500 elements,
12 including some FACA, participated in the attack on Bangui on 5
13 December 2013, which was carried out in a coordinated manner by different
14 Anti-Balaka groups.

15 In accordance with the strategy laid out by the Anti-Balaka leaders involved,
16 including the de facto coordinator of Anti-Balaka operations, Maxime Mokom,
17 Yekatom and his groups specifically attacked Boeing and Cattin sectors in the
18 south west of Bangui with the objective of advancing towards PK5, which was
19 the Muslim neighbourhood of the capital.

20 The Bangui attack was carried out by the Anti-Balaka with the aim to take
21 control of the city, to oust Djotodia and then take power. But its purpose was
22 also to attack the Muslim civilian population whose members were also
23 considered to be Seleka. Video-recorded statements by the Anti-Balaka
24 leaders at the time of the December 5 attack, referenced in our concluding
25 statements, unambiguously depict the clear intention of these persons to attack

1 and kill Muslims, including statements by Andjilo and Chocolat who led some
2 of the fighters during the attack.

3 Shortly after 5 December, Sylvestre Yagouzou, an Anti-Balaka spokesperson,
4 made no secret of this collective criminal intent when he declared, and I quote,
5 "we are going to carry out the massacre. Let him resign to save the lives of the
6 Central African peoples."

7 So, for the Chamber's reference, this declaration or statements of Andjilo and
8 Chocolat bear the ERN, CAR-OTP-2049-0141; translation,
9 CAR-OTP-2074-1957 -- 58, rather, and those of Yagouzou bear the ERN,
10 CAR-OTP-2065-5468; translation, CAR-OTP-2122-2303.

11 During the attack, the Anti-Balaka targeted members of the civilian population
12 who were not involved in the hostilities. The vast majority of Muslim
13 civilians in the neighbourhoods attacked by the Anti-Balaka had no alternative
14 in the face of their violence but to flee en masse in a hurry towards PK5 in
15 particular in order to seek refuge.

16 The bodies of victims, men and women, some bearing traces of machete blows
17 or burnt, were transported to the Central Mosque in the Muslim
18 neighbourhood at PK5.

19 Mr President, your Honours, in the context of his group's participation in the
20 attack on Bangui on 5 December 2013, on Boeing and Cattin, Yekatom directed
21 an attack against the Muslim civilian population of these areas, and this is a
22 war crime referred to under Article 8(2) of the Statute.

23 Under his authority, and in execution of his criminal orders, his elements killed
24 at least eight Muslim civilians who were not directly involved in the hostilities.
25 They attacked the mosque in Boeing and forced Muslims in Boeing and Cattin

1 to flee en masse for their lives.

2 This characterises the crime against humanity of deportation or forced transfer
3 and the war crime of forced displacement. These crimes were committed for
4 religious, national or ethnic reasons, targeting the victims because they were
5 Muslims or Arabs and depriving them of certain fundamental rights, including
6 persecution.

7 On a preliminary point, the Prosecution observes that the Defence of Yekatom
8 attempts in paragraph 355 to 362 of its closing brief to establish a *cordon*
9 *sanitaire* between Yekatom and his group on the one hand and the Anti-Balaka
10 on the other, by resorting to a fiction articulated around an obtuse acronym,
11 the RFACPP.

12 It argues that Yekatom's group, far from being the Anti-Balaka movement, was
13 in fact a small group of FACA who intervened in the attack only at the request
14 of Captain Ngrémangou and that the latter, who had actually been trained in
15 international humanitarian law, observed the principle of distinction during
16 the attack.

17 Mr President, your Honours, this fiction does not stand up to scrutiny of the
18 evidence, especially that provided by a number of witnesses within the
19 Anti-Balaka at the time and who were involved in the preparations of the
20 attack.

21 It does not stand up against the telephone communications that are on file,
22 which shows, among others, that at least 22 telephone contacts between a
23 telephone number assigned to Yekatom and a telephone number assigned to
24 Mokom between November 26, 2013 and December 4, 2013 - thus, at a very
25 high frequency in a few days - during which the strategy for the attack was put

1 in place and implemented.

2 These contacts between Yekatom and Mokom are analysed in paragraphs 54
3 to -- 54, rather, of our final brief.

4 To be clear, therefore, Yekatom and his group participated in the direct and
5 indirect connection with the Anti-Balaka leaders of the 5 December attack,
6 including Mokom. As my colleague Mr Garcia pointed out, Yekatom and his
7 men were part of the Anti-Balaka movement at that time.

8 With regard to the Defence's allegation at paragraph 589 of its closing brief,
9 according to which elements of the accused's group were imbued with the
10 principles of international law, and observed the principle of distinction
11 between combatants and civilians, this does not hold up to the evidence
12 relating to the crimes and the numerous video recordings of statements made
13 by them following the attack of December 5, which tend to portray their
14 intention to kill Muslims, to drive them out and, in so doing, admitting to
15 having killed them.

16 I will return to this point.

17 First of all, Yekatom is being prosecuted for intentionally directing an attack
18 against the Muslim civilian population of Boeing and Cattin as part of the
19 December 5 attack. A war crime charged under count 1.

20 In this regard, the Chamber heard during the trial that Yekatom had assembled
21 his elements the day before the attack and gave them criminal orders. In
22 giving them his instructions for this operation, he told them to attack not only
23 the Seleka, but also members of the Muslim civilian population, mainly men.
24 The evidence is inherently credible and corroborated by circumstantial
25 evidence that leaves no room for a reasonable doubt. My colleague Mr Garcia

1 has already mentioned the existence of similar instructions from Yekatom and
2 his lieutenants pertaining to training and then, later on, when the accused's
3 group was advancing along the PK9-Mbaïki axis.

4 Most significantly, your Honours, many video recordings contemporaneous
5 with the attack show that the leaders of the group, including those closest to
6 Yekatom, as well as the rank and file elements, openly proclaimed their violent
7 hatred of Muslims and their desire to drive them out, to kill them, and claiming
8 to having slaughtered some without fear of being reprimanded by the leaders
9 present.

10 Beina, who would later become Yekatom's deputy, threatened to commit a
11 genocide. These recordings not only show their desire to attack the Muslim
12 population, not only show that that desire was shared by all elements of the
13 group, but also at all levels up to the top, and that such sentiments and
14 criminal acts were furthermore encouraged and supported by the leaders of the
15 group.

16 Mr Garcia spelt out the highly structured nature of Mr Yekatom's group and
17 the discipline in place. Yekatom's elements, including his deputy -- his
18 deputies would obviously not have made such statements if the accused did
19 not share their views and sentiments and conduct.

20 The references of the relevant videos are mentioned in our final submissions.
21 Video CAR-OTP-2065-3172 is particularly significant on this point. We will
22 play it. It is short. I would like to invite the interpreters to follow the
23 translation, which is at CAR-OTP-2118-5654 at the same time.

24 (Viewing of the video excerpt)

25 THE INTERPRETER: [14:58:50] (Interpretation of the video excerpt)

1 "We must kill the Seleka. We will get Djotodia. We will kill him. We will
2 kill all of them. He has to go. He has to go. I am Central African, Bozizé,
3 KNK.

4 We have spent a lot of time in the bush. All we want is for Central Africans to
5 live in peace. We are here to -- to intervene, for -- for the Central African
6 people to return to peace. My name is Corporal Maïdana Max. I am a
7 soldier. We are here. We don't want Djotodia to remain in power. We
8 want him to leave the Central African Republic. We don't want to see any
9 Muslims. We are all soldiers. We are here for our country. We are fighting
10 for our country."

11 MR BELBENOIT-AVICH: [15:00:32](Interpretation) Let me point out that
12 several individuals whom we saw, including the young man with the white
13 shirt who can be seen at minute time stamp 00:00:26, is an individual wearing a
14 red hoodie and a front pocket also visible at 00:00:26, and Max Maïdana, with a
15 red t-shirt bearing the word "RUN" can be seen in another video,
16 CAR-OTP-2065-3208, in the presence of Yekatom who addresses them and
17 gives them further instructions.

18 These three individuals and others identified on other videos can be seen at
19 00:00:26, 00:02:11 and 00:00:22 on the second video, and they are dressed in
20 exactly the same way, at the same location in the same base and apparently at
21 the same time.

22 In parenthesis, someone can be heard on the video referring to Bozizé and
23 KNK. This is evidence that relates to the contemporaneous spirit of
24 December 5 -- of the December 5 attack which Yekatom and his group did
25 indeed share, and in relation, one might say, to the return to constitutional

1 order.

2 Finally, the legal consideration of this point, of commission by Yekatom under
3 Article 8(2) of the Statute at paragraph 50 -- 585 of its conclusions, the Defence
4 asserts that this crime can only be characterised that it is (Speaks English) "a
5 primary object of the alleged attack on Boeing and Cattin was the civilian
6 population as a whole or individual civilians not taking direct part in
7 hostilities".

8 (Interpretation) However, Yekatom led the attack against the Seleka, but this
9 does not prevent nor exclude the fact that he directed an attack against the
10 Muslim civilian population in Boeing and Cattin. The Defence relies on a case
11 law that does not support its argument.

12 Mr President, your Honours, let me now turn to the point of murder, the
13 murder of at least eight civilians by Yekatom's group in Boeing and Cattin in
14 connection with the attack of 5 December 2013, crimes prosecuted under
15 charges 2 and 3.

16 The evidence demonstrates beyond reasonable doubt that Yekatom's elements
17 deliberately killed at least seven Muslim traders at the Boeing market who
18 were not directly involved in the hostilities. On the day of the attack, at
19 around 6 a.m., Yekatom and at least 600 elements of his group took up
20 positions in front of the shops of these traders, while the latter had spent the
21 night there to protect their goods because they were worried about the tension
22 in the capital city.

23 Yekatom gave orders for the assault by firing into the air and the elements then
24 fired. Some of the shopkeepers who had weapons for their protection tried to
25 defend themselves in self-defence, but they were shot. Muslim shopkeepers

1 were wounded by gunfire and a number of them managed to flee.

2 In our final brief we clearly demonstrate that the factual circumstances were

3 clear and that these victims were indeed traders and were not directly involved

4 in the hostilities. Yekatom was aware of this because he was on the scene and

5 he launched the attack against the merchants which, it must be said, fall under

6 crimes under Article 8(2) of the Statute. In paragraphs 387 to 393 of their

7 submission, the Defence develops a number of arguments. First, they alleged

8 at paragraph 387 of their closing brief that Yekatom and his troops, or his

9 elements attacked the market based on the testimony of witnesses who testified

10 about this incident, but also based on Anti-Balaka officials who testified about

11 the strategy adopted for the 5 December attack, including the fact that

12 Mr Yekatom and his group were in charge of attacking Boeing. Yekatom and

13 his group as of 5 December, actually took up base in the Yamwara school in the

14 same sector.

15 A video recorded under number CAR-OTP-2065-4500 confirms that Yekatom's

16 group took control of the market area as part of the attack and has the value of

17 circumstantial evidence. It shows Yekatom on the phone after the attack,

18 explaining clearly to Seleka elements as follows:

19 "They came with their outfits, they are in the bases and they came all the way

20 to the market, to the Boeing market as well, so we fell back a bit".

21 I'm referring here to video transcript CAR-D29-0006-1335.

22 Secondly, the Yekatom Defence puts forwards arguments that the Seleka were

23 directly taking part. In paragraph 391 of its final submissions it notes, and

24 I quote:

25 (Speaks English) "[in] this regard, the Chamber will recall the evidence of

1 multiple Boeing residents as to the Traders' possession and use of firearms;
2 their membership of the Seleka, and their material assistance in Seleka missions
3 aimed at tracking down, abducting and killing, ex-FACA."

4 (Interpretation) As regards the sources of the numerous witnesses, which you
5 can see in paragraph 394, footnote 1303 to 1306, the numerous witnesses in fact
6 limit themselves to just two witnesses, P-0884 and D29-4011, whose evidence
7 on this point is devoid of probative value. P-0884 relates to hearsay and
8 apparently confuses Hassan with Bichara.

9 The statements of D29-4011, who was unable to testify under the decision of
10 the Chamber and to be cross-examined, so are devoid of credibility.

11 In his own admissions, this witness was not able to travel to the market since
12 an unspecified date in 2013 because of health problems. And D29-4011 gives
13 no details as to his sources of information.

14 On this point, generally, I would like to draw the Chamber's attention to the
15 points developed in transcript T-154, page 50, lines 15 to 19, and page 51, lines
16 18 to 13.

17 The Prosecution is surprised that the Defence should rely on these two
18 witnesses whose credibility is weak, rather than on its own witness D39-4013
19 who lived close to the market and who said that he frequently went to the
20 market. This is in transcript T277, page 8, line 2.

21 D29-4013 stated that although the Muslim traders had visits from people who
22 spoke Arabic, there was nothing to suggest that they were Seleka. I refer to
23 transcript T-277, page 19, line 4 to 24.

24 If Seleka had been based at the market or if Hassan or other traders had been
25 Seleka, then D29-4013 would have said so.

1 The Defence did not and they did not do so in the questions in the
2 examination-in-chief in context to open questions.
3 Finally, in paragraph 391 of its submissions, the Defence again argues,
4 referring to a witness, that Yekatom may have wanted to attack the Muslim
5 traders in the market first in order to warn that his elements ran the risk of later
6 being attacked from the rear as they advanced towards PK5.
7 This line of defence is equally unconvincing. Firstly, this argument is
8 conjectural. Secondly, in any case, the fact that certain Muslim shopkeepers
9 had weapons for their protection did not make them legitimate military targets
10 under the law of armed conflict.
11 In reality, Yekatom, who shared the same hatred of Muslims as the members of
12 his group, and who had already given general instructions to attack the
13 Muslim civilian population the day before, did not grapple with the principle
14 of distinction. These shopkeepers were Muslims. That was enough for him
15 to take the decision to eliminate them.
16 Your Honour, ladies and gentlemen of the Court, after attacking the market,
17 Yekatom and some of his elements continued their attack in Cattin. The
18 evidence shows beyond any reasonable doubt that members of the group killed
19 at least one Muslim civilian who was not taking direct part in the hostilities, in
20 carrying out the criminal orders which Yekatom had given the day before the
21 attack. P-1528 testified that while he was at home in Cattin he heard shouting,
22 "It's an Arab", for someone calling for help. When he looked through a hole in
23 the wall of his compound after the shouting had stopped, and driven by
24 curiosity or probably by fear to see what was happening, you can logically
25 visualise this, he saw four individuals who he identified as Anti-Balaka,

1 wearing gris-gris, armbands. One of them was armed with a Kalashnikov and
2 the other three with machetes. Before this Chamber, that witness said he had
3 seen members of the population near the Anti-Balaka, encouraging them to kill
4 Muslims. He saw the body of the victim later that day as he was leaving his
5 home by car. She was drowning or bathed in her blood. This evidence is
6 credible.

7 The testimony of P-1528 is consistent, especially as it is corroborated by
8 evidence in the case file which shows that the members of the Yekatom group
9 did indeed want to kill Muslims during the period of the attack and that
10 Yekatom and some of his elements were indeed in Cattin in the morning of 5
11 December, as it appears from the video recording of a conversation involving
12 Yekatom and Keapex. For the Chamber's reference, this is document
13 CAR-OTP-2065-0726.

14 The fact that the victim was a civilian not taking a direct part in the hostilities is
15 clear from the fact as recounted by P-1528 who reported hearing people
16 shouting "It's an Arab", and therefore not "It's not a Seleka", and people
17 encouraging the killing of Muslims.

18 Furthermore, P-1538 did not report hearing any shots, but he stated that
19 Anti-Balaka beat and killed the victim. This appears in paragraph 31 of his
20 statement, CAR-OTP-2048-0757 at 0762, and in the French transcript, T178,
21 page 19, line 14 to 15. This shows that the persons did not carry a firearm.

22 With regards to this murder, Defence put forward arguments which are not
23 sufficiently convincing.

24 In particular, it asserts in paragraph 384 of its final submissions and in footnote
25 1279 that the four individuals identified by P-1528 cannot be members of

1 Yekatom's group because three of them were carrying machetes and that
2 Yekatom, interviewed a few days after the attack, stated, and I quote, "We, we
3 are not Anti-Balaka, are we? Come on. You haven't seen anyone with
4 machetes here."

5 The Chamber will refer to the multiple testimonies and documentary evidence
6 establishing that the majority of the members of the Yekatom group were
7 civilians and did not possess firearms.

8 The video, CAR-OTP-2065-3172, which I played earlier, shows members of the
9 accused's group with machetes.

10 I now move on to the attack on the Boeing mosque which is count 6. The
11 evidence demonstrates beyond any reasonable doubt that in the early hours of
12 the morning of 5 December 2013 certain elements of the Yekatom group
13 attacked Boeing's only mosque, known as the Nour Alyaguin, firing a rocket at
14 the building and attempting to set it alight with a little petrol, partially
15 damaging it. Members of the civilian population continued by destroying it,
16 removing the roof and the bricks from the wall from which it was made in
17 order to reuse them for building purposes. The evidence established that this
18 attack on the mosque had been carried out in execution of general orders given
19 the previous day by Yekatom and that the individual who fired the rocket
20 would not have done so without such an order being given to him by the
21 accused.

22 With your leave, your Honour, I would like to go into closed session for about
23 five minutes to discuss certain aspects of the evidence which I do not want to
24 show in public.

25 PRESIDING JUDGE SCHMITT: [15:16:00] Private session. Although I said

1 we are not very happy to go to private session. You know, if you don't
2 mention any identifying matters, we could also have it in open session.

3 MR BELBENOIT-AVICH: [15:16:22](Interpretation) Very well. We will try
4 our best.

5 PRESIDING JUDGE SCHMITT: [15:16:27] Anyway, you know, mentioning
6 all the references in -- you know, on the record, is something you can refer to
7 your -- to your closing briefs and things like that, because it's also, for the
8 listeners and everything, perhaps also for Defence later on, it gets a bit
9 cumbersome. No -- it's no criticism, but when you say, you know, this
10 is -- when you have these eight digits and then you say and then the translation
11 is another 10 digits and things like that, I think that's not necessary, because we
12 know what's on the record and we assume, I hope so rightfully so, that you
13 have it also in your closing brief. Thank you.

14 MR BELBENOIT-AVICH: [15:17:10](Interpretation) Thank you, your Honour.
15 Your Honour, members of the Court, contrary to the -- what the Defence
16 maintain in its final submissions, P- -- the -- the testimony of the witness is
17 credible and consistent and that sometimes the reading of the Defence is
18 erroneous.

19 Firstly, the Defence argument in paragraph 363 to 365 of its final submission,
20 which compares the testimony of this to Witness 2475 is not convincing. The
21 fact that the two witnesses have different versions of the same events does not
22 *ipso facto* affect the credibility of each of them. To be clear, the Prosecution is
23 not relying on P-2475. Furthermore, the testimony is credible. As explained
24 in paragraph 589 of our final submissions, there is no doubt that this witness
25 was part of the accused's groups. There is no doubt on that. The

1 information he provided, including the information on the attack of Bangui,
2 and in particular of the use of the record by a certain individual to attack the
3 mosque, is corroborated by testimonies and documentary evidence. The
4 nature of the attack on the market and the mosque as described by this witness
5 is fully consistent with the conduct of Yekatom and his group during the
6 relevant period, as reported by the witness who were members of the group,
7 by witnesses who were victims of the group's abuses, and as shown in
8 particular by videos as regards anti-Muslim remarks made by members of the
9 group.

10 Secondly, the Defence alleges intrinsic contradictions in this testimony as
11 regards the circumstances of the attack on the mosque which do not exist.

12 First, in paragraph 413 of its submission, and I quote, (Speaks English)

13 "[d]uring his testimony, [this individual] stated that RFACPP elements were
14 not involved in the destruction of the Mosque" (Interpretation) in order to
15 support that he later changed the version. But this allegation is incorrect.

16 The Defence referred to transcript T-152, page 71, line 1 to 23, to 72, line 2,
17 noting that the witness had said in Sango "*a fa a mosquée*", which in its view
18 excluded the person speaking, and the interpretation in French was "*on a détruit*
19 *la mosquée*", we have destroyed the mosque, should be understood in the same
20 way. But nowhere in his testimony did this individual say to himself that he
21 was physically attacked -- that he physically attacked the mosque, but that he
22 had been with elements that had attacked and damaged part of it. So,
23 therefore, there is no contradiction.

24 Next, Defence tries to explore in paragraph 413 the confusion between the
25 initial attack of the mosque, which the witness explained was carried out by the

1 elements of the group, and, two, the subsequent destruction of the mosque by
2 the population. The testimony in question is intrinsically consistent. From
3 the outset he insisted that the mosque had been attacked and partially
4 damaged by the Anti-Balaka, but that it had been destroyed; i.e., dismantled,
5 demolished by the population in an opportunistic way. This witness said he
6 was surprised when he and the other elements were subsequently
7 withdrawing on 5 December to see that the population had begun to demolish
8 the building. This gradual destruction of the mosque by the population over
9 several days is corroborated by Prosecution and Defence witnesses, as set out
10 in paragraph 592 of the final writings. This explanation by the question
11 attests to its credibility.

12 And two final points, briefly, on the attack of the Boeing mosque.

13 Firstly, in paragraph 415 of its submissions, Defence distorts the evidence of
14 the expert witness P-2193, who when analysing a satellite image of 8 December
15 2013, showing, and I quote, (Speaks English) "that the abundant vegetation and
16 trees around the Mosque did not appear to be damaged, unlike other areas he
17 analysed where burnt patches of grass were visible".

18 (Interpretation) According to the Defence, this contradicts the testimony of the
19 relevant witness. This is not the case. Defence neglects to point out that
20 this -- 2193 explained this by saying, and I quote, (Speaks English) "it is a wet
21 environment. A building will burn easier than a wet tree". (Interpretation)
22 This appears in the transcript T-019, page 49, line 15 to 17.

23 Lastly, the Defence stated that D-29-4011 and D29-4013 indicated they had not
24 seen any traces of burning on the mosque when they saw members of the
25 population removing metal sheets from it. I'd like to point out that P-2193

1 confirmed traces of fire damage on the basis of analysed satellite images.

2 Secondly, the fact that the witnesses did not see any traces of burning does not
3 affect the credibility of the evidence since, as reported by P-1339, the
4 population began destroying the mosque on the day of the attack, and it is
5 apparent that D29-4011 and D29-4013 did not see members of the population
6 removing metal sheets later, when the destruction was continuing, as
7 explained in paragraph 591.

8 Your Honour, ladies and gentlemen of the Court, I'm now going to deal with
9 the crimes of deportation and forcible transport and forced displacement,
10 prosecuted under counts 4 and 5.

11 The evidence established beyond reasonable doubt that the violence
12 perpetrated by the Yekatom group on 5 December 2013 and subsequently
13 while he was based at the Yamwara school in Boeing, forced members of the
14 Muslim civilian population to flee en masse, in particular from the Muslim
15 neighbourhood of PK5. There they found themselves with a large number of
16 other displaced Muslims in Bangui coming from the provinces, from localities
17 where the Anti-Balaka were also attacking the Muslim population. They lived
18 in appalling conditions, in dire conditions, whilst PK5 was surrounded by the
19 Anti-Balaka, and to leave was risking being killed. Many of them were then
20 taken under military escort to the north of the country or to neighbouring
21 countries, including Chad and Cameroon.

22 Defence argues that the flight of the Muslim civilian population from Boeing
23 and Cattin may have been the result of the violence by the Seleka or the
24 Christian population, rather than being attributable to the actions of the
25 Anti-Balaka. These arguments do not stand up to the evidence.

1 Firstly, the relevant witness, including D29-5014, linked the departure of the
2 population to the Anti-Balaka exactions in the area of 5 December. The
3 evidence shows that the murders of the Muslim traders in the market rapidly
4 became known and terrorised the Muslim population, as testified by 2682,
5 P-1528 and D29-5014.

6 Particularly, the Yekatom elements wanted to attack the Muslims, kill them,
7 and drive them out, as shown by the many contemporary videos which have
8 already been quoted. This is actually what happened on 5 December in
9 carrying out Yekatom's criminal order by the crimes they committed. Faced
10 with the onslaught of more than 1,500 Yekatom elements in Boeing, where they
11 were based and where they continued their atrocities, no Muslim civilian could
12 choose to remain in that location without risking his or her life and that of their
13 family.

14 Your Honour, members of the Court, I'd like to conclude by emphasising the
15 obvious nature, character of these crimes. They were committed against the
16 victims because they were Muslims or Arabs, for religious, national or ethnic
17 reasons. On this point, I would simply refer to our conclusions.

18 I will now give the floor to my colleague Sylvie Wakchom, who will talk about
19 crimes committed by the Anti-Balaka in Bossangoa, starting with the attack on
20 the town on 5 December 2013.

21 PRESIDING JUDGE SCHMITT: [15:26:11] Thank you.

22 We give now the floor to Ms Wakchom.

23 And since we started, let's say, 10 minutes later today, I think, Ms Wakchom,
24 you can continue, let's say, another 15 or 20 minutes maximum from now on.

25 Before we finish for today.

1 MS WAKCHOM: [15:26:40] Thank you, your Honour.

2 PRESIDING JUDGE SCHMITT: [15:26:42] Let's say quarter to four. Yeah.

3 MS WAKCHOM: [15:26:54] Mr President, your Honours, I will be presenting
4 on the charge related to the 5 December 2013 attack on Bossangoa, particularly
5 count 30 to 35 and 37 to 42.

6 The evidence establishes beyond reasonable doubt that on the afternoon of
7 5 December 2013, a group of Anti-Balaka fighters, trained in Gobere, attacked
8 the Muslim civilian population of Bossangoa, killing at least 18 civilians. The
9 timing was no coincidence. As explained by my colleague, it was carefully
10 coordinated by Mokom from Zongo to follow the early attack on Bangui that
11 same day.

12 The evidence before your Honours shows that the attack on the Muslim
13 population of Bossangoa was intentional, and that none of the 18 Muslim
14 civilians that were killed by the Anti-Balaka, including three women, were
15 taking direct part in hostilities.

16 Given their function in the Muslim community of Bossangoa, P-2200 and
17 P-2049 were able to observe the dead bodies, identify some of them and
18 participate in their burial. They even provided the name of some victims that
19 they could remember.

20 Your Honours have seen the photograph of Muslims victims of the 5 December
21 attack on Bossangoa provided by P-2049. It depicts several corpses, all
22 appearing to be wearing civilian clothes, covered with sheets.

23 Among the 18 victims of the attack, were four members of a local Muslim
24 family killed as they were trying to seek shelter at the imam's house. The
25 evidence before your Honours shows that the Anti-Balaka who attacked

1 Bossangoa shot Khadidja Adjaro, Abdel Abakar and his younger brother
2 Atahir, and they also slit the throat of Koursi Mahamat, also known as
3 Abdel-Rahim. You have heard this from P-2462 and P-2657 who witnessed
4 the attack. They heard the gunshot fired by the Anti-Balaka and saw the dead
5 bodies of the four family members. Three other witnesses corroborate the
6 identity of the four victims.

7 Ousman Abacar and his mother, both members of a Peuhl family, were also
8 among the 18 victims of the Anti-Balaka's attack. You have heard from P-1577
9 who saw the victims just moments before they were killed, that Abacar was
10 injured from previous Anti-Balaka attacks. For this reason, he could not -- he
11 could not flee with the others to *the École de la Liberté*. P-1577 was told by
12 survivors of the attack that the Anti-Balaka killed Abacar and his mother who
13 had stayed at the imam's house to take care of her wounded son. Both of their
14 throats had been slit.

15 Another victim of the 5 December attack is a Muslim taxidriver known as C-17.
16 He was killed at the *École de la Liberté*. You have heard from P-2453 who
17 witnessed the attack and described how the Anti-Balaka came very close to the
18 school, shooting in his direction, and killing C-17 and a peacekeeper.
19 P-2453's testimony is corroborated by P-2049 and P-1577.

20 Your Honours, the fact that none of these 18 victims took part in any act of war
21 is irrefutable on credible and reliable evidence in the record. Your Honours
22 may recall P-2453's evidence that many of them were found dead in the imam's
23 house because they had not managed to flee to the *École de la Liberté* on time.
24 Your Honours also heard from P-2453, P-2462 and P-2657 that the four
25 members of the local family did not own arms, were not engaged in the combat

1 at the time of their death, and none of them were associated with the Seleka.

2 In fact, the four victims were running away when the Anti-Balaka chased and
3 killed them.

4 The Defence's alternative narrative regarding Abdel-Rahim, bearing arms and
5 arming people prior to 5 December is not able to cast reasonable doubt. The
6 Defence's narrative is based on uncorroborated assertions from Defence
7 witness D30-4496, which can not undermine the testimony of multiple
8 Prosecution witnesses that Abdel-Rahim died in the attack of 5 December 2013
9 and was unarmed at the time of his murder.

10 Neither Abacar, given his injuries, nor his mother were engaged in combat
11 when they were killed. In fact there's no evidence that the Peuhl family was
12 part of an armed group.

13 Neither was C-17, who was sheltered at the *École de la Liberté* when he was
14 killed. The Defence suggestion that C-17 was fighting alongside the Seleka
15 when he was killed is not supported by the evidence on the record.

16 Your Honours, that some Muslims from Bossangoa had joined the Seleka does
17 not make all Bossangoa Muslim legitimate targets, as suggested by the
18 Defence.

19 Additionally, the general assertion of Muslim in Bossangoa being armed prior
20 to 5 December has no bearing on the civilian status of the approximately 18
21 victims, as specified. In any event, such claims derive mainly from anecdotes
22 and rumours, and lack specificity.

23 Your Honours, the evidence shows that the Anti-Balaka who perpetrated these
24 killings were aware of the civilian status of the victims; yet, they disregarded
25 this status. Your Honours have heard from direct witnesses that the civilian

1 victims were objectively identifiable as such by any onlooker. They were
2 wearing civilian clothes, they were unarmed, some were injured, others were
3 seeking shelter. None of them visibly caused a risk to the attackers.

4 The Anti-Balaka's intent to attack the civilian population in Bossangoa on 5
5 December is further established by the evidence. As Kema, the leader of the
6 attack would later admit to P-0287, I quote:

7 "The main objective of his group" -- the Anti-Balaka in Ouham province -- "was
8 'still' to chase all the Muslims out of Ouham and also to chase out all the
9 Seleka". End of quote.

10 P-2453 also overheard Anti-Balaka elements relay Kema's order to kill all
11 Muslims and leave none alive.

12 P-2269, who had also been at Gobere confirmed, I quote, "[w]e didn't
13 differentiate between Muslim civilians or Seleka, they were all the same [...] It
14 didn't matter if they were children, women or elderly, they were all Seleka".
15 End of quote.

16 Contrary to the Defence's unfounded allegations, the Anti-Balaka's attack on
17 Muslim civilians in Bossangoa was not justified by any legitimate military
18 objectives. Although insider witnesses such as P-2251 and P-0966 claim that
19 the instructions received by the Anti-Balaka elements was to not harm Muslim
20 civilians who did not associate with the Seleka, their testimonies demonstrates
21 that, in reality, the Anti-Balaka did not distinguish between civilians and
22 combatants.

23 You have heard from P-2251's understanding that the large majority of
24 Muslims was associated with the Seleka. In his view, and I quote, "[p]erhaps
25 three, four or five Muslims in each town might not have associated with the

1 Seleka." End of quote.

2 Similarly, P-0968 stated that in Bossangoa, and I quote, "whoever was a Muslim

3 was a Seleka". End of quote.

4 He also added that any Muslim man found in a house who had not fled was a

5 Seleka.

6 Your Honours, the Prosecution has established beyond reasonable doubt that

7 the Anti-Balaka elements also raped at least two women in Bossangoa during

8 their attack. The evidence of these rapes is credible and reliable.

9 In one instance, five Anti-Balaka found a Muslim woman hiding in a house.

10 They threatened her with their weapon and took her to a house where the

11 leader {ICR: (Redacted)} raped her. The evidence demonstrates that {ICR:

12 (Redacted)} was a member of the Anti-Balaka. P-2602's testimony confirms that

13 {ICR: (Redacted)} was an Anti-Balaka chief of section under Dedane. P-2658

14 also heard that {ICR: (Redacted)}, a former butcher, had joined the Anti-Balaka.

15 In another instance, seven men came into the house where another woman was

16 hiding. After some discussion, five left the house and two remained to rape

17 the woman. She knew one of the rapists as {ICR: (Redacted)}, but did not

18 know the other one. The victim's identification of the perpetrators as

19 Anti-Balaka is convincing. They were Gbaya and Sango-speaking. They

20 were wearing gris-gris and red headpieces, and were present during a major

21 Anti-Balaka offensive.

22 While these two rapes are the only ones specified in this case, the evidence

23 shows that sexual violence was symptomatic of the Anti-Balaka's wider attack

24 on the towns and villages of western CAR. The Anti-Balaka raped Muslims in

25 retribution for Seleka crimes.

1 Your Honours, the evidence before you also demonstrates beyond reasonable
2 doubt that in Bossangoa the Anti-Balaka pillaged, destroyed properties and
3 attacked protected objects. During the attack, Muslim houses were
4 systematically set on fire, or otherwise destroyed, especially in the
5 predominantly Muslim neighbourhoods of Boro, Arabe and Fulbe. In the first
6 week after the attack, the Anti-Balaka dismantled and destroyed several
7 mosques, including the Central Mosque of Bossangoa, and by the end
8 of January 2014, they had destroyed an estimated 1,500 Muslim properties.

9 Your Honours, the evidence further shows that the Anti-Balaka's 5
10 December 2013 attack on Bossangoa caused a mass displacement of
11 Bossangoa's Muslim population to the *École de la Liberté*. There were
12 approximately 7,000 displaced Muslims at the school after 5 December. At
13 least four Prosecution witnesses attested that during the attack Muslims fled
14 for their lives as the Anti-Balaka were shooting everywhere. In addition, the
15 living conditions at the *École de la Liberté* were so difficult that no one would
16 freely choose to endure them. P-2462, P2453, P-2652 and P-2658's evidence
17 shows that after 5 December 2013, many people were forced to sleep outside
18 the school building for lack of space. The testimony of these witnesses is
19 corroborated and confirmed by satellite imagery and photographs.

20 The photographs on your screen were taken at the *École de la Liberté* on 9
21 December 2013, just a few days after the attack and the massive displacement
22 of the Muslim population at the school. As you can see, it was not easy for the
23 displaced Muslims at the school.

24 Contrary to the Defence's argument, it was impossible for the displaced
25 Muslims to leave the school due to threats of Anti-Balaka attacks. The

evidence of P-2462, P-2049 and P-2453 shows that this threat was real, as it was dangerous to leave the school without military escort.

According to P-2200, I quote in French:

(Interpretation) "The situation for Muslims in Bossangoa at that time was as if one were in a prison. We were surrounded by the Anti-Balaka from all angles. They had taken up positions at several locations in the city and we couldn't dare go out of the camp. [...] A Christian from my neighbourhood came and warned us not to step out because the Anti-Balaka were tracking down Muslims."

(Speaks English) P-2200's evidence is corroborated by other contemporaneous evidence, including a video that I will show now. It display the dire situation of the Muslims in Bossangoa following the 5 December attack by the Anti-Balaka.

(Viewing of the video excerpt)

(The following inserted excerpt is a transcription prepared and provided by the parties of the aforementioned recording without any modification or alternation.)

[...] from power. Armed with clubs and machetes, they are known as ANTI-BALAKA, which means "Anti-machete" in the local Sango language.

[Silence, 00:00:47 - 00:00:50]. A few hundred meters from the Christian camp, 7,000 displaced Muslim refugees are living here, in a camp set up on the site of a school.

[00:01:05. Sous-titrage : " Ils ont des armes. Moi, j'ai vu tout ça. "]

[Les cinq lignes suivantes sont prononcées simultanément]

INI : Ils ont les armes.

1 Journaliste : [Voix off] They have weapons.

2 INI : Moi, j'ai vu ... moi aussi, j'ai vu ça.

3 Journaliste : [Voix off] I have seen that for myself, she says.

4 INI : ...ils sont sortis à ...

5 [00:01:10. Sous-titrage : " Ils sont venus de l'évêché, ils ont tout cassé dans ma
6 maison. Ils ont tout volé. "]

7 Journaliste : [Voix off] They came from the church and they broke everything.
8 They stole everything from my house.

9 Journaliste : [Voix off] The CENTRAL AFRICAN REPUBLIC's Muslims and
10 Christians used to live here together in relative harmony. Now, they fled for
11 their lives.

12 MS WAKCHOM: [15:44:58] Your Honours, ultimately, the Muslim
13 population had no choice but to flee to Chad. By April 2014, virtually the
14 entire Muslim population of Bossangoa had been effectively expelled. Under
15 threat and with no houses to return to, they fled mainly to Chad.

16 The removal of the Muslim population was no by-product of the Anti-Balaka's
17 sustained attack against them, but its very objective.

18 Finally, your Honours, and contrary to the unfounded allegations made by the
19 Defence, the core crime base witnesses for the Bossangoa attack, such as P-2049,
20 P-2200, P-2453; P-2642, and P-2657, gave credible, reliable and coherent
21 accounts of the events during the attack and its aftermath. Any inconsistency
22 in the witnesses' accounts are reasonable, and, in most cases, are related to
23 minor issues and do not affect their overall credibility.

24 This concludes my presentation on the Bossangoa incident. And, tomorrow,
25 my colleague will continue with the presentation of the remaining incidents.

Closing statements

(Open Session)

ICC-01/14-01/18

- 1 Thank you very much.
- 2 PRESIDING JUDGE SCHMITT: [15:46:16] Well, that was on the spot,
- 3 Ms Wakchom.
- 4 So this concludes the hearing for today. We continue tomorrow morning at
- 5 9:30.
- 6 THE COURT USHER: [15:46:26] All rise.
- 7 (The hearing ends in open session at 3.46 p.m.)