

1 International Criminal Court
2 Pre-Trial Chamber II
3 Situation: Central African Republic II
4 In the case of The Prosecutor v. Alfred Rombhot Yekatom and Patrice-Edouard
5 Ngaïssona - ICC-01/14-01/18
6 Presiding Judge Antoine Kesia-Mbe Mindua, Judge Tomoko Akane and
7 Judge Rosario Salvatore Aitala
8 Confirmation of Charges Hearing - Courtroom 1
9 Friday, 20 September 2019
10 (Upon resuming in open session at 2.44 p.m.)
11 THE COURT OFFICER: [14:44:38] We are back in open session, Mr President.
12 PRESIDING JUDGE MINDUA: [14:44:59](Interpretation) Thank you very much,
13 Madam court officer.
14 For the record, I would like to point out that the legal representatives of the victims
15 are back in the courtroom.
16 Mr Prosecutor, I will now give you the floor, but I would like to point out once again
17 that you are going to conclude this afternoon; is that the case?
18 Very well, thank you very much for your cooperation.
19 MR LEDDY: [14:46:08] Yes, that is the case, your Honour.
20 Good afternoon, Mr President, your Honours. I will now present the crimes charged
21 at the town of Boda in the Lobaye prefecture, and all of the audio-visual aids in my
22 presentation can be broadcasted publicly.
23 As your Honours can see from the map here, annex F5 to the Prosecution's DCC,
24 Boda is a town approximately 160 kilometres west of Bangui, and can also see here on
25 the map the town of Mbaïki to the south-east of Boda on the route to Bangui.

1 There were approximately 45,000 inhabitants in this town and its surrounding
2 villages in February 2014. Some 12,000 Muslims and 30,000 non-Muslims resided in
3 Boda alone.

4 Reports indicate that on 5 December 2013, at the same time as the coordinated attacks
5 in Bangui and Bossangoa, Anti-Balaka launched an unsuccessful attack in Boda, in
6 part to dislodge the armed Séléka there.

7 In January 2014, the evidence shows that armed Séléka groups in Boda committed
8 abuses against the Christian majority population, causing some of them to gather in
9 camps for internally displaced persons around the city.

10 On or about 28 January 2014, after the Séléka withdrew from Boda - and indeed the
11 entire country - the Anti-Balaka elements immediately attacked the town's Muslim
12 population. The Anti-Balaka's coordinated attack on Boda lasted several days.

13 Over 30 witnesses, including crime-base witnesses, Anti-Balaka insiders, journalists
14 and photographers provide accounts of the Anti-Balaka campaign to target civilians
15 during this attack. These witnesses describe the Anti-Balaka attack on the Muslim
16 civilian population in Boda in late January and early February 2014, including their
17 murder, rape, forcible transfer, deportation, and displacement, as well as their
18 persecution. This conduct supports count 67 against Ngaïssona: the war crime of an
19 attack directed against the civilian population. As with the other incidents, the
20 attack on the civilian population is not just the initial Anti-Balaka offensive on the
21 town, but also includes Anti-Balaka conduct through much of 2014 that forced the
22 Muslim population into an enclave in Boda.

23 A few days after the 28 January 2014 Anti-Balaka offensive on Boda, FACA elements
24 armed with light weapons came from Bangui to Boda to reinforce the local
25 Anti-Balaka. Witness and photographic evidence shows several members of

1 Yekatom's group also joining in the attack, including his deputy Freddy
2 Ouandjio - the alias *is* Coeur de Lion - who died during the attack.
3 On 4 February 2014, a photographer took a picture of Anti-Balaka elements on the
4 road to Boda, which I will now show the Court. The four armed men in this photo
5 identified them as Anti-Balaka who were going to Boda to kill Muslims.
6 The photographer kept driving down the road, and about 30 kilometres later, at the
7 entrance to Mbaïki, came across another much larger group of about 50 elements who
8 also told the photographer they were Anti-Balaka preparing to go to Boda. The
9 photographer described the group, and I quote:
10 "Some were wearing military uniforms. They were in group formation, similar to
11 military group. There were about 50 of them with several vehicles. They were also
12 heavily armed and highly regimented. They warned us not to take any photos ..."
13 This account is corroborated by Anti-Balaka insider witness who described an
14 Anti-Balaka group that met in Mbaïki and then went to Boda, including 46 elements
15 belonging to Coeur de Lion, and another eight from Bangui in pick-up trucks. Yet
16 another Anti-Balaka insider witness described writing the very mission orders for
17 Coeur de Lion and his elements to travel to Boda.
18 On arrival in Boda, these elements gathered at the local Catholic mission with local
19 Anti-Balaka, where they strategised about the attack. This combined group, also
20 known as the Boda group, incorporated both FACA and Anti-Balaka youth. One
21 Anti-Balaka insider witness who was present said the objective of the attack discussed
22 in the meeting was to chase away Muslims, and that, quote, "it was agreed that the
23 Muslims had to leave CAR and go back to their countries". End quote.
24 They did not discuss what to do with a captured Muslim, because, quote, "if one was
25 captured, they would be killed".

1 In the early morning hours of 5 February 2014, the Boda group executed a planned
2 coordinated attack on the Muslim population. They were reinforced later that day
3 by another group of Anti-Balaka.

4 Some of these very elements were interviewed in Boda. I would like to play an
5 excerpt of this video, which is in French and Sango, but has English subtitles. The
6 ERN is CAR -- the video, is CAR-OTP-2058-0573, and I'm going to play the excerpt
7 from 27:51 to 29:16. This will be a sight translation. There is no official transcript,
8 as there are subtitles, but as noted previously this was a transcript that was provided
9 unofficially to the interpreters in advance.

10 (Viewing of the video excerpt)

11 PRESIDING JUDGE MINDUA: [14:53:29] There is no sound for that.

12 MR LEDDY: [14:53:46] I think there might be an issue with the sound, your Honour.
13 We will try again.

14 THE INTERPRETER: [14:53:53] The interpreters would need to have clarification:
15 The video has subtitles in English, do we still have to read it out?

16 PRESIDING JUDGE MINDUA: [14:54:09] Yes. Yes, please.

17 THE COURT OFFICER: [14:54:15] Could the counsel please confirm whether they
18 have to interpret it? Yes.

19 Yes, the counsel is confirming to the interpreters. Thank you.

20 MR LEDDY: [14:54:32] Are the interpreters ready to translate? Thank you.

21 (Viewing of the video excerpt)

22 THE INTERPRETER: [14:54:45] From the interpreters: There is still no sound.

23 (Viewing of the video excerpt)

24 MR LEDDY: [14:56:58] Your Honour, if I can suggest, we will just skip the video for
25 now and I will read part of the unofficial transcript on to the record.

1 PRESIDING JUDGE MINDUA: [14:57:13](Interpretation) Proceed, please.

2 MR LEDDY: [14:57:15] Thank you, Judge.

3 I will quote the interviewer here. As you can see from the subtitles in the video, the
4 interviewer asks:

5 "Is it possible for Muslims and Christians to live together again?"

6 The Anti-Balaka member responds:

7 "It's impossible. Not like this."

8 Interviewer: "What's that for?" Indicating the machetes. Anti-Balaka: "It's for me.

9 It's for killing Muslims. We take this and cut here and here. If the Muslims want to
10 leave we don't have any problems with them. But if they don't leave we'll kill them.

11 Even the women are bad like their husbands. A Muslim baby, the same thing."

12 The intent of the attackers could not be more clear, your Honour. As widely
13 reported in the media, and as several Anti-Balaka insiders confirm, the Boda group's
14 attack was aimed at cleansing Boda of any Muslim presence, perceiving them as
15 having been complicit with the Séléka.

16 This coordinated attack only ended when Sangaris forces arrived later, on or about 5
17 February.

18 This attack forced Boda's Muslims to flee to safety in a handful of central
19 neighbourhoods. They were bounded by a virtual red line monitored by
20 international forces, which, if crossed, carried the threat of death by the Anti-Balaka.
21 For their survival, Muslim civilians were fully dependent on the protection of
22 international forces. Within weeks of the Muslim enclave it doubled in size, swelling
23 from 6,000 to 11,000, then to at least 14,000 Muslims. Muslim civilians who tried to
24 leave the enclave in search for food or firewood were hunted down and killed by the
25 Anti-Balaka.

1 UNICEF, in partnership with another international NGO, created a map which shows
2 this enclave in May 2014, which I will now try to show your Honours on the screen.
3 You can see here the red area in the middle is the Muslim enclave, bounded by the
4 red line there. One Anti-Balaka insider from Boda saw this map and commented
5 that at least five Anti-Balaka bases surrounded the enclave in 2014.
6 Throughout 2014, continuing Anti-Balaka violence and threats forced Boda's Muslim
7 community to endure deplorable circumstances within this enclave, with limited
8 access to basic health care, food, and water. Shortages of medicine, lack of access to
9 medical treatment led to many deaths. Poor water quality led to the proliferation of
10 sickness and disease. Muslims in the enclave had to rely on external sources for
11 nutrition, sometimes going days without food. As in Bangui, Anti-Balaka elements
12 threatened those merchants to prevent them from selling food to Muslims. As noted
13 by the UN Panel of Experts on CAR, the Anti-Balaka also attacked an NGO that
14 provided food and other supplies to Muslims. One Muslim witness in the enclave
15 remembered wondering when it would be his turn to die.
16 Two witnesses, including a journalist who visited the enclave in March 2014,
17 described how the Anti-Balaka denied Muslims the right to bury their dead with
18 dignity, and just like with the Boeing cemetery incident, civilians could not access
19 Muslim burial sites beyond the enclave's perimeter without an armed escort, for fear
20 of being attacked.
21 On or about 4 April 2014, a photographer in Boda took two pictures that I would like
22 to show your Honours. The photographer described, in the first picture you can see
23 here, that these are Muslims queuing for food distribution within the enclave, and
24 that the last food distribution was five weeks ago with rations for one week.
25 I will show you the second photo now. The photographer described this picture of

1 Muslim Peul children that were suffering from malnutrition and diarrhoea in the
2 Boda enclave.

3 One Muslim crime base witness in the enclave described the conditions behind the
4 red line, and I will quote the French:

5 (Interpretation) "If a Muslim crossed that line, the Anti-Balaka would kill him, so we
6 were obliged to remain in the Muslim quarters, where we did not have enough food.
7 That is the reason why I believe they wanted to exterminate us."

8 (Speaks English) This intention was confirmed by an Anti-Balaka insider from Boda
9 who said it was forbidden to sell food to the Muslims, so either way they would
10 starve to death or they would be forced to leave.

11 The severe deprivation of liberty the Muslims experienced in this enclave, in addition
12 to their inhumane and degrading treatment, constitute counts 68 through 70 of the
13 charged crimes.

14 To escape continuing Anti-Balaka violence, many Muslims fled Boda altogether; by
15 their own means when possible, or through evacuation by Sangaris or other
16 international forces, mainly to Bangui, Chad and Cameroon. This forcible transfer,
17 deportation, and displacement constitute count 71 and 72 of the charged crimes.

18 In the weeks and months following the attack, Anti-Balaka elements also
19 perpetrated sexual violence upon both civilians in Boda and those trying to leave
20 Boda, constituting 73 and 74 of the charged crimes.

21 Your Honours, in accordance with the Prosecution's obligation under Article 68, we're
22 requesting a brief private session of just one or two minutes to go into more detail.

23 PRESIDING JUDGE MINDUA: [15:04:15](Interpretation) Madam court officer,
24 could we please go into private session for a few minutes.

25 (Private session at 3.04 p.m.)

- 1 THE COURT OFFICER: [15:04:22] We are in private session, Mr President.
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- 20 (Redacted)
- 21 (Open session at 3.06 p.m.)
- 22 THE COURT OFFICER: [15:06:13] We are back in open session, Mr President.
- 23 PRESIDING JUDGE MINDUA: [15:06:24](Interpretation) Thank you very much.
- 24 Prosecutor, please continue.
- 25 MR LEDDY: [15:06:30] Your Honours, the Anti-Balaka committed the crimes and

1 acts I've described in Boda in a coordinated effort to cleanse the area of its Muslim
2 population by violently targeting them on the same basis and for the same reasons as
3 described in previous persecution counts. This conduct underlies count 78, the
4 crime against humanity of persecution. Turning now to the direct perpetrators of
5 the Boda attack: Their knowledge and intent is shown by the crimes they led and
6 committed, and the statements they and their subordinates made, including of the
7 video and excerpt that I played earlier.

8 The local Anti-Balaka coordination was aware of the crimes charged, as the crimes
9 were reported to them, and widely reported in the media.

10 Yekatom was also aware of the planned attack, although he is not charged with the
11 underlying crimes of this incident. Call data records and other evidence show that
12 Yekatom was in phone contact with two of his deputies who participated in the attack
13 prior to the attack, and that he was in touch with one surviving deputy during and
14 after the attack. Yekatom was also in contact with Mokom just after the attack in
15 mid-February 2014. Ngaïssona knew of and intended the crimes committed by the
16 Boda group. In addition to the fact that the situation in Boda was heavily covered by
17 the media, at least three additional factors point to his knowledge of events there.

18 First, the Boda-based Anti-Balaka leadership regularly informed the national
19 coordination, including Ngaïssona, of what was happening in Boda, and this was
20 done both over the phone and in person in regular meetings.

21 Call data records and witness evidence corroborate that leaders of the Boda group
22 regularly reported about the situation in Boda to members of the national
23 coordination and to Ngaïssona. According to one insider Ngaïssona, quote, "knew
24 all the facts" about Boda.

25 Second, members of the national coordination visited Boda multiple times in 2014,

1 including while the enclave was in place.

2 Third, according to a report by the UN panel of experts from 1 July 2014, Ngaïssona
3 controlled the Anti-Balaka group in Boda. This conclusion is further supported by the
4 fact that Ngaïssona ordered and organised the dismantling of the roadblocks in Boda,
5 which only occurred in September or October of 2014.

6 Ngaïssona was aware of the deplorable circumstances forcing Muslims to stay in the
7 enclave. Despite his knowledge of the crimes committed, he did not condemn the
8 participation of Anti-Balaka in the attacks, nor did he act urgently to end the
9 continued subjugation of Muslims in the town. Instead, Ngaïssona validated the
10 Boda's group actions and accepted their continued membership in the group.

11 Your Honours, that concludes my presentation for this incident. I will now hand the
12 floor to my colleague, Ms Galupa.

13 PRESIDING JUDGE MINDUA: [15:10:03](Interpretation) Thank you very much,
14 Mr Leddy. I would also like to thank you very much for your summarising efforts.
15 The floor is yours, Ma'am.

16 MS GALUPA: [15:10:37](Interpretation) Thank you very much, Mr President,
17 your Honours.

18 I shall now cover the crimes charged perpetrated in Carnot. Carnot is the fourth
19 largest town in the Central African Republic in terms of inhabitants. In 2010, its
20 population was 87,000 people, of which 15 per cent approximately were Muslims.

21 As you can see on the map that is coming up on your screen, Carnot is located in the
22 south-west of the Central African Republic, at approximately 215 kilometres from the
23 Cameroonian border, and approximately 100 kilometres to the north of Berbérati and
24 100 kilometres to the west of Guen.

25 On the 2nd -- or, on around 2 February 2014, the Anti-Balaka entered the town. The

1 Séléka had left two days before. A majority of the Muslim population had also left
2 Carnot at the end of January, fearing for their security, after having heard about the
3 violent acts perpetrated by the Anti-Balaka in Bangui and the villages surrounding
4 Carnot.

5 In the days that followed, Anti-Balaka from other towns in the CAR arrived in Carnot.
6 In total, 1,000 to 2,000 Anti-Balaka set up in Carnot.

7 Rapidly, they started to attack the civilian Muslim population after having taken
8 control of the town. This attack continued until at least the beginning of 2016, as I
9 shall outline in this presentation.

10 The criminal objective of the Anti-Balaka in Carnot was clear. As the insider witness
11 explained, their objective was as follows, and I quote in French:

12 "... to kill only the Muslims, to drive the Muslims out of the CAR. This is what they
13 said. They said that they no longer want any Muslims on their territory. Because
14 the Séléka are Muslims." The attack upon the Muslim civilian population on the part
15 of the Anti-Balaka is outlined in charge 79.

16 As a result of the attack, the entire Muslim population of Carnot left their homes,
17 either fleeing directly from the town to Cameroon, to Chad, or other localities in
18 Central African Republic, or by seeking refuge in the compound of the *Saints Martyrs*
19 *de l'Ouganda* church located in Carnot.

20 The deportation or forcible transfer of the civilian population -- civilian Muslim
21 population of Carnot as a crime against humanity is covered in count 80, and count 81
22 as forced displacement.

23 For those who sought refuge in the compound of the *Saints Martyrs de l'Ouganda*
24 church, they found themselves surrounded or hemmed by the Anti-Balaka, who
25 harassed and threatened them, whilst preventing them from leaving and attacking

1 those who took the risk of attempting to leave without protection.

2 The animosity of the Anti-Balaka of Carnot towards those Muslims in the compound
3 of the church was evident. One of the Anti-Balaka leaders entered the concession of
4 the compound with two jerrycans containing 20 litres of fuel, and said that he would
5 set it alight if the Muslims would not hand it over to him.

6 Mr President, I would like to now request that we move into private session with
7 a view to showing a video. This should not take more than two to three minutes.

8 PRESIDING JUDGE MINDUA: [15:15:00](Interpretation) Madam courtroom officer,
9 could we please have private session for two to five minutes. Thank you.

10 (Private session at 3.15 p.m.)

11 THE COURT OFFICER: [15:15:15] We are in private session, Mr President.

12 (Redacted)

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18 (Open session at 3.18 p.m.)

19 THE COURT OFFICER: [15:18:11] We are back in open session, Mr President.

20 PRESIDING JUDGE MINDUA: [15:18:26](Interpretation) Thank you very much.

21 Madam Prosecutor, you have the floor.

22 MS GALUPA: [15:18:30](Interpretation) In approximately mid-February 2014, the
23 soldiers from the MISCA were sent to Carnot in order to provide safety and security
24 for the Muslims. The MISCA established a safety perimeter around the church,
25 preventing the Anti-Balaka from gaining entry. The Muslims could only safely exit

1 the compound under MISCA escort or with the assistance of the personnel of
2 *Médecins Sans Frontières*, Doctors Without Borders, which was an NGO present on the
3 site.

4 The image that is on your screen shows you the elements of the MISCA guarding the
5 enclave, and it is an extract from a report of the BBC dated 18 March 2014 in which
6 the journalist explains that the MISCA is protecting the Muslims from likely death,
7 and that the small contingent present from the African Union - and once again I'm
8 quoting in English - (Speaks English) "wouldn't be enough to beat off a determined
9 attack".

10 (Interpretation) This enclave or hemming in of the Muslims on the site of the *Saints*
11 *Martyrs de l'Ouganda* church lasted for more than two years. If a majority of the
12 Muslim displaced were progressively evacuated under escort to Cameroon,
13 approximately 500 of them were still confined there in the year 2000 -- at the
14 beginning of the year 2016.

15 This forced confinement of Muslims, attributable to the threats and violence of
16 Anti-Balaka present in Carnot, are characterised as under count 82.

17 Mr President, your Honours, the living conditions of the Muslims in the compound of
18 the *Saints Martyrs de l'Ouganda* church were difficult. This same report from the BBC
19 of 18 March 2014, filmed in the months after the Anti-Balaka's arrival, outline the
20 dangers and the situation of the Muslims in the church.

21 I am going to show you the 30 first seconds and you will see in these images the
22 Muslims in the compound and inside the church and their very poor living
23 conditions.

24 And in order to interpret the video, which is in English, I would like to specify the
25 number as CAR-OTP-2012-0477, and also the number of the transcript,

1 CAR-OTP-2107-6886. And I specify that this is an interpretation from a written
2 document.

3 THE COURT OFFICER: [15:22:01] Could the counsel please confirm whether the
4 presentation in the videos are public?

5 MS GALUPA: [15:22:07] It is public.

6 (Viewing of the video excerpt)

7 MS GALUPA: [15:22:33](Interpretation) These images show, as the journalist has
8 explained, approximately 1,000 Muslims in the compound of the church, but at other
9 moments in time more than 2,000 Muslims had sought refuge there. The church,
10 apart from the Muslims of Carnot and its surrounding areas, had taken in Muslims
11 from other localities such as Guen, Yaloké, Bossempaté, Bossembélé, Bozoum and
12 Baoro.

13 A witness explains that according to the registers held at the entrance to the enclave,
14 approximately 3,000 Muslims were gathered there over the period covered by the
15 charges over a surface area covering approximately half a football pitch.

16 Most of the Muslims present there were women and children. There was a lack of
17 food, of medication, of toilets and showers. And overcrowding gave rise to diseases
18 such as cholera. Many Muslims died of this.

19 These inhumane living conditions, imposed upon the Muslims because of the
20 Anti-Balaka actions, are characterised in counts 83 and 84.

21 Furthermore, the Prosecution goes on to cover count 85, such as the crimes that I have
22 just described as characterisation of persecution, which focused upon Muslims who
23 were denied the most fundamental of rights.

24 With regard to the perpetrators of the crimes charged, the evidence shows that they
25 were part of the Anti-Balaka national coordination.

1 Firstly, the Anti-Balaka elements in Carnot were issued with identification
2 cards -- official identification cards by the coordination.
3 You can see the photograph of one of these badges on your screen. The photo was
4 taken in Carnot on 26 April 2014, as you can see in the key, by a member of one of the
5 panel of experts of the United Nations within the CAR and it is annexed to the report
6 of this panel dated 1 July 2014.
7 Secondly, the Anti-Balaka from Carnot were in telephone contact with the members
8 of the national coordination and with Mr Ngaïssona himself. They would report to
9 them and receive instructions from him and them.
10 Lastly, some of these leaders also were in attendance at the coordination meetings of
11 the Anti-Balaka in Bangui, of which some were held at the residence of Mr Ngaïssona.
12 Mr President, your Honours, Mr Ngaïssona was aware of the criminal situation
13 prevailing in Carnot from the moment that the Anti-Balaka entered the town and
14 throughout the entire duration of the hemming in of the Muslims, that is to say, until
15 at least the beginning of 2016.
16 As I have just indicated, Mr Ngaïssona and the other members of the coordination,
17 the Anti-Balaka coordination were in telephone contact with the leaders of the Carnot
18 group, who would report to them and received instructions from them.
19 Then, Mr Ngaïssona could - whatever the case may be - not be unaware of the crimes
20 committed by the Anti-Balaka in the city and the disastrous situation of the Muslims
21 who were hemmed in in the enclave by virtue of the fact that it was so widely covered
22 in the national and international press, and this throughout the duration of the events.
23 The priest of the *Saints-Martyrs de l'Ouganda* parish also made a call over the Ndéké
24 Luka Central African radio station alerting people to the situation of the refugees.
25 These calls were reiterated in the international media in February 2014, March 2014,

1 April 2014 and then systematically in the months that followed.

2 But if Mr Ngaïssona was aware of the criminal situation in Carnot, he did not
3 condemn the violent acts committed, nor did he take the measures that his functions
4 would have allowed as general coordinator in order to put a stop to them, whilst
5 these crimes committed for nearly two years.

6 Rather, he *de facto* more approved these acts because he gave his support to the
7 Anti-Balaka leaders in Carnot in their positions of command, and he officially
8 appointed some of them to ComZones.

9 PRESIDING JUDGE MINDUA: [15:28:03](Interpretation) I would like to thank you
10 very much and congratulate you for your presentation.

11 MS GALUPA: [15:28:13] I will now cede the floor to my colleague
12 Mr Belbenoit-Avich.

13 MR BELBENOIT-AVICH: (Microphone not activated)

14 THE COURT OFFICER: [15:28:38] Counsel, could you please turn on the
15 microphone.

16 MR BELBENOIT-AVICH: [15:28:42](Interpretation) Your Honours, ladies and
17 gentlemen, I am now going to cover the crimes committed in Berbérati.

18 It is the *chef-lieu* of -- and it is located, as you can see in the map on your screen, to the
19 south-west of the Central African Republic, approximately 85 kilometres
20 from Gamboula, that is to say, not far from the Cameroonian border, that is
21 85 kilometres south of Carnot and more than 500 kilometres to the west of Bangui. It
22 is the third-largest town in the country with, in 2009, a population of approximately
23 130,000 individuals of approximately 6,500 Muslims.

24 The Muslim population started leaving the town in late January 2014, for fear of an
25 imminent attack of the Anti-Balaka, while Séléka had just left.

1 In the early days of February, a first Anti-Balaka group entered the town from
2 Gamboula. It was quickly joined on 10 February 2014 or thereabouts by a second
3 group from Carnot and a few Anti-Balaka members from Berbérati.
4 As I have just said, all these Anti-Balaka members carried out a systematic attack
5 against the Muslim population of Berbérati, and this is charged in count 86.
6 First of all, on 10 February 2014 or thereabouts five Muslims at least were killed by the
7 Anti-Balaka on their way to the town, and at least five were killed the following day.
8 On 7 April at least 16 had been killed. None of them were armed.
9 The Prosecution witnesses say that the Anti-Balaka did not face any resistance upon
10 entering the town.
11 It was because they were Muslims that they were killed. Mr President, I would like
12 to go to private session briefly.

13 PRESIDING JUDGE MINDUA: [15:31:16](Interpretation) Private session for five
14 minutes.

15 (Private session at 3.31 p.m.)

16 THE COURT OFFICER: [15:31:24] We are in private session, Mr President.

17 (Redacted)

18 (Redacted)

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8 (Open session at 3.33 p.m.)

9 THE COURT OFFICER: [15:33:23] We are back in open session, Mr President.

10 Could you also please confirm the level of confidentiality of the slides.

11 MR BELBENOIT-AVICH: [15:33:54](Interpretation) The document itself is public,

12 but we showed it in private session so it should remain confidential.

13 A report of 14 December 2014, CAR-OTP -- shows the Berbérati Anti-Balaka

14 proclaiming their hatred of Muslims and their wish to exterminate them.

15 THE INTERPRETER: [15:34:33] The speaker is going much too fast. Can he be

16 asked to slow down, please.

17 MR BELBENOIT-AVICH: [15:34:46](Interpretation) It's a public document and the

18 interpretation is provided.

19 PRESIDING JUDGE MINDUA: [15:34:52](No interpretation)

20 (Viewing of the video excerpt)

21 THE INTERPRETER: [15:35:02] "Journalist: We meet those who claim to be the

22 neighbourhood Anti-Balaka vigilantes, a group of idle youths many with eyes blurred

23 by alcohol and drugs. They say the crimes committed by the ex-Séléka are

24 unforgivable. Like they, the head like that. Uncontrollable. I destroyed the

25 houses of Muslims there. When you seek death, we give you death. If I find

26

1 a Muslim, I will kill him."

2 MR BELBENOIT-AVICH: [15:35:37](Interpretation) You would have noted that one
3 of these Anti-Balaka members was brandishing an official ID card of the Anti-Balaka.
4 This badge is visible on a screenshot on your screen, and at the top of the badge there
5 is an inscription "Anti-Balaka".

6 The Prosecution is charging these murders under counts 87 and 88.

7 The Anti-Balaka also pillaged and destroyed the houses of the Muslims as early as the
8 time of their arrival in Berbérati. Regarding the residences of the Christians, the
9 Anti-Balaka did not touch them. A witness explains that while the houses of the
10 Muslims are usually fenced, the Anti-Balaka asked the Christians who also had fences
11 around their houses to identify such houses with the house of palm fronds so that
12 they should be spared. The number of houses destroyed is indicative of the
13 systematic nature of the attack carried out against the Muslim population and,
14 following a census, 228 houses were destroyed in the 3rd *arrondissement*, 205 in the 4th
15 *arrondissement* and 542 in the 5th *arrondissement*. Almost all Muslim-owned houses
16 were destroyed in the Muslim quarter of Popoto.

17 And, Mr President, I would like to go back very briefly to private session.

18 PRESIDING JUDGE MINDUA: [15:37:33](Interpretation) Private session, court
19 officer, please.

20 (Private session at 3.37 p.m.)

21 THE COURT OFFICER: [15:37:39] We are in private session, Mr President.

22 (Redacted)

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 3.39 p.m.)

14 THE COURT OFFICER: [15:39:13] We are back in open session, Mr President.

15 PRESIDING JUDGE MINDUA: [15:39:24](Interpretation) Thank you very much,
16 court officer.

17 Mr Prosecutor, please proceed.

18 MR BELBENOIT-AVICH: [15:39:28](Interpretation) Naturally, since the Anti-Balaka
19 wanted to eliminate everything Muslim, they attacked their places of worship,
20 pillaging and destroying, according to a witness, the 19 mosques of the town. You
21 can see on your screen a photograph dated 6 July 2014 showing the state of the central
22 mosque.

23 All these acts of pillaging and destruction of houses and buildings devoted to religion
24 are charged under counts 89 to 93. Mr President, your Honours, the objective of the
25 Anti-Balaka was to compel the Muslim population to flee, because -- or, solely on the

1 basis of their religious affiliation, they were considered as associates or accomplices
2 of Séléka. They effectively achieved their objective through the use of violence.
3 When the Anti-Balaka entered the Berbérati, most of the Muslim residents took refuge
4 in the churches and were sheltered at the *Sainte Anne* church, located in the town.
5 There they joined a number of displaced persons who had fled the violence of the
6 Anti-Balaka in Boda, Baora, Bouar and Carnot. More than 2,000 displaced persons
7 were inside the compound of the church and were subsequently joined by other
8 Muslims from other localities.
9 These thousands of displaced persons were progressively evacuated, amongst others,
10 by MISCA and taken to Cameroon. According to a census, more than 13,000 left the
11 location between May and December 2014.
12 A report of December 2014 portrays the situation of the 350 displaced people still in
13 the church premises.

14 I will show a video now --

15 THE INTERPRETER: And counsel is giving out the figures very, very fast and this
16 cannot be captured by the interpreter.

17 MR BELBENOIT-AVICH: [15:42:03] This video does not have a translation. The
18 extract is in English. And the journalist shows that the displaced people cannot go
19 beyond 200 metres of the gate because the attacks are frequent.

20 (Viewing of the video excerpt)

21 MR BELBENOIT-AVICH: [15:42:51](Interpretation) The deportation or transfer of
22 these people and their forcible relocation form the subject of counts 94 and 95.
23 These Muslims present in the church were threatened and attacked by the
24 Anti-Balaka each time that they tried to leave the location. They were confined or
25 hemmed in there against their will, under the protection of MISCA stationed at the

1 entrance. It was only in July 2015 that the last 400 Muslims were able to leave the
2 *Sainte Anne* church and return to their neighbourhoods.

3 As a witness explained, the displaced persons were, and I quote: "... as if in a prison,
4 the Anti-Balaka did not want them to go out and return to the town; they were
5 patrolling the town, hunting down Muslims. And if they found any, they would
6 beat them or threaten them. The purpose was to scare them to flee the country."

7 End of quote.

8 The conditions of life at the location were difficult because of overcrowding, and
9 a good number of displaced persons had no choice but to sleep outdoors. The
10 sanitary and healthcare facilities were insufficient, and the food supplies could only
11 be channelled through the church and NGOs.

12 Under counts 96 to 98, the Prosecution charges this forced confinement of Muslims in
13 undignified conditions following the violence and harassment of the Anti-Balaka.

14 Lastly, considering that all the crimes enumerated above targeted the Muslim
15 population and almost all their fundamental freedoms were taken away, the

16 Prosecution has characterised the crimes charged as acts of persecution under count
17 99.

18 Regarding the perpetrators of these crimes, the Anti-Balaka, as I have mentioned, they
19 arrived Berbérati in early February 2014, and were joined by other elements on 10
20 February or thereabouts.

21 PRESIDING JUDGE MINDUA: [15:45:48](Interpretation) For the record, I would
22 like to point out that Mr Ngaïssona has left the courtroom to go to the Detention
23 Centre. He has waived his right to be present for the rest of the hearing of today.

24 Mr Prosecutor, you can proceed.

25 MR BELBENOIT-AVICH: [15:46:07](Interpretation) They were linked to the

1 coordination and their leaders were in frequent contact with the coordination, as with
2 other ComZones in Bangui and the province. The telephone call logs collected by
3 the Prosecution establish the existence of such contacts from as early as December
4 2013, and at least throughout the entire year 2014.

5 The video excerpt that I played before showing the Anti-Balaka member from
6 Berbérati brandishing his official Anti-Balaka badge, is evidence linking them to the
7 national coordination.

8 The evidence shows that Mr Ngaïssona was aware of the situation in Berbérati and
9 that he had the *mens rea* for the crimes charged.

10 First of all, there is no way that he could not have been informed, given the repeated
11 contacts between the members of the coordination and the leaders of the Anti-Balaka
12 in Berbérati. These same leaders were frequently summoned to meetings of the
13 coordination in Bangui, and some of those meetings took place in the residence of
14 Mr Ngaïssona.

15 Furthermore, Mr Ngaïssona, despatched people on mission to Berbérati, in particular
16 he sent representatives in charge of discussing the situation with local authorities.
17 He was certainly equally aware of the numerous media and NGO reports on the
18 subject.

19 But even though he was aware of the criminal acts ongoing on the spot, and while the
20 Muslims continued to be confined and harassed, Mr Ngaïssona never denounced
21 these acts, nor did he use the resources and powers at his disposal to put an end to
22 them.

23 Instead, he rewarded the perpetrators by promoting their leader to the position of
24 Anti-Balaka coordinator for the whole prefecture of Mambéré-Kadéï, and appointing
25 him as a member of the Anti-Balaka delegation to the Brazzaville summit of July 2014.

1 Mr President, your Honours, this ends the -- what happens in Berbérati.

2 As you can see on the map on your screen, this is located about a hundred kilometres

3 east of Carnot and 10 kilometres away, or thereabouts, from the Gadzi *sous-préfecture*.

4 The subsoil is particularly rich in diamonds, Guen therefore saw considerable

5 economic development. According to a 2012 census, the village had at the time

6 a population of around 10,000; between 13 to 15 per cent were Muslim. The

7 Christians worked primarily in mining diamonds. Collectors, however, whose job is

8 to buy and sell, were mainly Muslim. Numerous Muslims were also tradesmen.

9 Towards mid-January 2014, this Muslim population began leave Guen, concerned for

10 its safety after having received reports of crimes committed by the Anti-Balaka in

11 Yaloké, Zawa and Mbaïki by Muslims fleeing the locality and crossing the village.

12 More people left when the Anti-Balaka were reported to be in the village of Mbaina,

13 located some 30 to 40 kilometres to the north of Guen. Others followed the Séléka

14 when the Séléka also left Guen and Gadzi on 30 January 2014, or thereabouts.

15 All witnesses corroborate the fact that no combat group was at that time present in

16 the village. The Muslim defence group members had also left the locality with the

17 Séléka.

18 On 1 February 2014, between 100 and 400 Anti-Balaka came down from Mbaina and

19 entered Guen around 5.30 or 6.30 in the morning. Their faces smeared with coal,

20 wearing magical amulets and equipped with machetes, spears, arrows, and

21 homemade hunting rifles, and, for some, Kalashnikovs. They immediately targeted

22 the Muslim population and its belongs, killing, looting Muslim houses and shops,

23 shouting out their hate against that population, saying things like, I quote, "The reign

24 is over! Now bring out the Muslims, we're going to have a good time!" End of

25 quote.

1 This Anti-Balaka attack on the Muslim population at Guen wasn't confined to 1
2 February. On the contrary, it lasted throughout the entire Anti-Balaka group's
3 presence in Guen, until the beginning of April 2014. The attack is charged as such
4 under count 100.

5 Your Honour, Honourable members of the Bench, the Anti-Balaka exterminated
6 members of the Muslim population who, in their vast majority, were men and boys.
7 At least 75 Muslim civilians were killed in the first eight days of the Anti-Balaka
8 presence in the village.

9 At least 22 were killed on 1 February, when the Anti-Balaka arrived. The fighters
10 eliminated its victims with firearms and with machete blows in the streets of Guen
11 and in the surrounding bush. All these victims were civilians, none were
12 combatants.

13 To illustrate: a witness saw a young man killed by a machete blow to the head. He
14 was running away, having come up face to face with Anti-Balaka members.

15 At least 42 Muslim civilian men and boys were subsequently executed by Anti-Balaka
16 on 4 February, or around that date. These victims had sought refuge with close to
17 250 other Muslims, women, children and wounded, in the home of a Muslim civilian
18 official. In the morning at around 9, the Anti-Balaka commander entered the
19 compound with several of his men and had the Muslim men taken out into the
20 courtyard. After having set aside some of them, who he decided to spare, he
21 divided the others into two groups. He forced them to face down on the ground,
22 and then, after having called them sheep ripe for the killing, he fired on them with his
23 Kalashnikov. The survivors were then finished off by the combatants in that place,
24 using machetes, under the supervision of their commander. Some of them took
25 photos of each other when finishing off their victims.

1 You can on your screen the location of said execution. This is a screenshot taken
2 from an Associated Press report. The first group of victims was executed near the
3 mango tree, whose branches you can see in the foreground, and the second group
4 was executed behind the moped which you can see in the background near another
5 mango tree.

6 Some of the Anti-Balaka then cut off the victims' ears and strung them on a wire.

7 Then they went to show them to the Muslim women present in the compound, saying
8 to them, and I quote a Prosecution witness, "They were our husbands' ears, next time
9 it would be our turn." End of quote.

10 That day, the Anti-Balaka continued to brutalise their victims. The witnesses who had
11 seen the bodies gave an account of the horror of the scene; several of the bodies had
12 been decapitated or amputated of their arms and legs.

13 Other Muslims were killed by the Anti-Balaka throughout that period, and with
14 particular cruelty. It was the case of the Muslim adviser to the mayor, or a man,
15 seriously wounded on 1 February, buried alive near the mosque. A handicapped
16 boy was also killed and his body cast into a well. In the weeks following, members
17 of the same group buried alive two aged Muslim women who they accused of
18 witchcraft.

19 A few victims survived these killings that I have just referred to, in the period of 1
20 February to 4 February, some with serious wounds. The Prosecution charges this
21 for -- as acts of extermination, attempted murder and murder under counts 101 to 103.

22 Your Honours, the Anti-Balaka also looted Muslims' belongings, their livestock, and
23 destroyed their homes. They did so systematically, taking their loot to Tedoa,

24 a village located north of Guen where many of them came from. But they also took

25 their loot to Mbaina, from which they also originated. Your Honour, with your leave,

1 I would like to slip the hour by 10 minutes, if that's possible. I don't know what time
2 it is. I have lost track of time.

3 PRESIDING JUDGE MINDUA: [15:56:11](Interpretation) We shall continue our
4 calculation.

5 How much time remains for the Office of the Prosecutor, please?

6 Well, I'm told that you have 10 minutes. No doubt you can finish therefore and
7 round off for today.

8 MR BELBENOIT-AVICH: [15:56:45](Interpretation) That's perfect.

9 PRESIDING JUDGE MINDUA: [15:56:46](Interpretation) Fine.

10 MR BELBENOIT-AVICH: [15:56:47](Interpretation) As in the Bangui attack, and in
11 the Berbérati attack, the Christian houses that were pointed out to Anti-Balaka with
12 palm leaves were spared.

13 Some Anti-Balaka extorted money from rich Muslims in exchange for the
14 accusation -- accusing these acts of extortion and pillage, because the perpetrators
15 appropriated these goods without the consent of the victims, and this for private and
16 personal ends.

17 This pillaging and destruction of goods come under count 107 to 108.

18 Your Honour, I move -- or, I request to move into private session to deal with two
19 crimes that have been redacted and are redacted, as such, in the DCC.

20 PRESIDING JUDGE MINDUA: [15:57:53](Interpretation) Can we do so, private
21 session, please for a few minutes.

22 (Private session at 3.58 p.m.)

23 THE COURT OFFICER: [15:58:01] We are in private session, Mr President.

24 (Redacted)

25 (Redacted)

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

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6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Open session at 4.00 p.m.)

18 THE COURT OFFICER: [16:00:03] We are back in open session, Mr President.

19 PRESIDING JUDGE MINDUA: (Interpretation) Thank you.

20 Prosecutor.

21 MR BELBENOIT-AVICH: [16:00:06](Interpretation) Honourable members of the

22 Bench, all of the aforementioned crimes, the more than 70 murders committed by the

23 Anti-Balaka within barely a week, the systematic looting of Muslim homes and shops,

24 the destruction, left the Muslim population no alternative but to flee for their lives,

25 leaving behind them their belongings for acts of pillage.

1 Some of these Muslim inhabitants fled on 1 February, when the Anti-Balaka had just
2 entered the village. The others left afterwards. At the beginning of April 2014,
3 when the last members of the Anti-Balaka group entered Guen on 1 February and
4 they left the village, there remained no or almost no Muslims at all.

5 The Anti-Balaka themselves led Muslims out of Guen. This was true of refugees in
6 the compound belonging to the civilian Muslim I just mentioned in the context of 4
7 February 2014 execution, or thereabouts that date. The day after that execution, 163
8 of these refugees, mainly women, children and wounded were led by the Anti-Balaka
9 commander and his men to the Catholic mission at Djoma, 5 kilometres away from
10 Guen. The displaced persons remained there until 1 April 2014. They were then
11 evacuated by MISCA to Carnot, from which most of them subsequently joined
12 refugee camps in Cameroon.

13 Other Muslims were able to leave the village after having obtained leave to do so
14 from the Anti-Balaka commander.

15 Indeed, throughout the entire DCC's crime period, cleansing Guen of Muslims was
16 the overt objective of the Anti-Balaka. A witness stated that every time he went by
17 an Anti-Balaka group, they, and I quote, "made remarks out loud such as, 'these
18 Muslims who refuse to go, we will have to kill them all'." End of quote.

19 This transfer or deportation of the Guen Muslims as a crime against humanity comes
20 under count 109. The crime of forcible displacement as a war crime is charged under
21 count 110.

22 Your Honour, Honourable members of the Bench, since all the aforementioned crimes
23 specifically targeted the Muslim community, they seriously deprived their -- the
24 victims the power to exercise their fundamental freedoms, the Prosecution is charging
25 them -- is charging acts of -- them as acts of persecution under count 111.

1 I turn to the direct perpetrators of the crimes that came from Tedoa village, located in
2 the Nana-Mambéré prefecture. These Anti-Balaka first went to the village of Mbaina,
3 located between Tedoa and Guen, where they were joined by Anti-Balaka in the area,
4 and then they all went down towards Guen.

5 They were joined upon their arrival in the village by some Guen inhabitants. Some
6 Anti-Balaka also arrived from other localities in the following days and weeks.

7 With your leave, your Honour, I would like to move once again into private session,
8 because I would like to raise matters that were redacted in the DCC.

9 PRESIDING JUDGE MINDUA: [16:03:55](Interpretation) Private session, please,
10 court officer.

11 (Private session at 4.04 p.m.)

12 THE COURT OFFICER: [16:04:02] We are in private session, Mr President.

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

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7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Open session at 4.06 p.m.)

17 THE COURT OFFICER: [16:06:49] We are back in open session, Mr President.

18 PRESIDING JUDGE MINDUA: [16:06:59](Interpretation) My thanks.

19 Mr Prosecutor.

20 MR BELBENOIT-AVICH: [16:07:01](Interpretation) Your Honour, Honourable

21 members of the Bench, the Prosecution further contends that Mr Ngaïssona must

22 have known the situation prevailing in Guen. Amongst other things, and by

23 referring in addition to what I have just laid out before you, the fact that a delegation

24 of the coordination went to Djomo and then Guen in mid-March 2014, as reported by

25 a witness, equally implies that the Anti-Balaka coordination must have been abreast

1 of the situation on the ground.

2 In addition, the crimes committed were reported publicly by the media and the NGO
3 such as -- NGOs such as Human Rights Watch, nationally and internationally, and
4 that from at the very least 13 February 2014.

5 Despite this knowledge, Mr Ngaïssona did not condemn the crimes committed.

6 Neither did he use his authority or influence in order to put an end to the commission
7 of the crimes, despite the fact that pillage and looting, as well as acts of imprisonment
8 or serious deprivation of physical liberty that I previously referred to, sexual crimes,
9 and forced displacement of the Muslim population, had continued throughout the
10 entire presence of the Anti-Balaka group in the village.

11 By awarding to the Anti-Balaka, upon their return to their village at Tedoa, official
12 identification Anti-Balaka badges, Mr Ngaïssona did, on the contrary, *de facto* approve
13 these acts.

14 I have now finished my submissions, your Honour.

15 PRESIDING JUDGE MINDUA: [16:08:43](Interpretation) My thanks, Mr Prosecutor.

16 It was your submission, or that of the OTP?

17 MR BELBENOIT-AVICH: [16:08:55](Interpretation) That of the OTP.

18 PRESIDING JUDGE MINDUA: [16:08:57](Interpretation) That's wonderful.

19 So we have now reached the end of today's hearing.

20 We will resume on Monday, 23 September at 9.30, as custom dictates, and we will
21 pursue the proceedings with the Legal Representatives of Victims.

22 For the time being, it remains to me to simply thank the audience in the public gallery,
23 to thank the parties and participants in the body of the courtroom.

24 It goes without saying, my thanks goes to the interpreters, to the court reporters, and
25 also the security officers.

- 1 Without further ado, we shall therefore rise and resume on Monday.
- 2 Court officer, over to you.
- 3 THE COURT USHER: [16:09:53] All rise.
- 4 (The hearing ends in open session at 16.09 p.m.)